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California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

A Gaze into
CALIFORNIA POLITICS 1984

Is Gann's new plan a coup for Cory?

The GOP 'secret weapon' – Jarvis' signature

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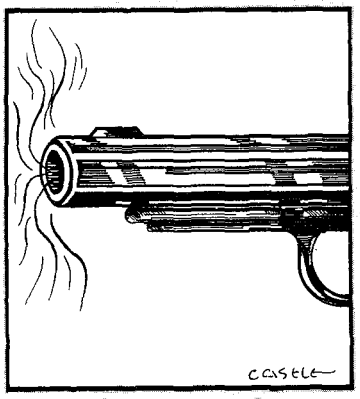
Personal
PERSPECTIVE

By Ed Salzman

The Moscone monument



George Moscone's legion of friends in the political world outside of San Francisco never could understand why he would give up a safe and sane job as Democratic leader in the state Senate for the frustrating task of governing the state's most ungovernable city. It seems to be a disease of San Francisco politicians, a symbol of The City's narcissism: If you are a San Francisco politician of note, you must run for mayor — or at least talk about running for mayor. Even while under heavy attack, as he often was as mayor, Moscone used to say: "I must be the luckiest guy in the world to be the mayor of the greatest city of the world." The rest of us probably wouldn't have thought there was a word of truth in that statement, even before Moscone's assassination.

Moscone was too nice a guy to be mayor of any city, let alone San Francisco. There were those in Sacramento who were hoping that the mayor would decide not to seek re-election and instead return to the Legislature. Here he was extremely successful and here he would undoubtedly have emerged as the leader of a Senate which missed him more than City Hall in San Francisco needed him.

Politicians by the scores delivered eulogies describing him as a beloved and compassionate person. The strange thing is that they meant what they were saying, and just about all of what they said about Moscone was true. That's unusual in the world of political charades and verbal gymnastics.

It might be expected now that Moscone's liberal colleagues would build a suitable legislative memorial for their fallen friend — a law placing restrictions on the kinds of weapons that struck him down, along with Supervisor Harvey Milk and, previously in Guyana, Congressman Leo Ryan.

Following the assassination of Robert Kennedy, a move was made in the Legislature to enact a major gun-control law. According to legislative lore, that effort resulted in the defeat of the bill's author, former Assemblyman Win Shoemaker, then of Santa Barbara. Actually, the gun issue was only one factor in Shoemaker's defeat.

The polls indicate that a majority of Americans, and presumably a majority of Californians, favor some form of gun-control or weapon-registration law. Yet, attempts to enact such legislation have been largely unsuccessful. Those who dare to tread in this area are endangering their political lives unless they come from a liberal refuge (such as San Francisco).

The opponents of gun control are extremely well organized and they have plenty of money to spend. In California, the leader of the pro-gun forces is state Senator H. L. (Bill) Richardson, and he has the capacity to raise a million dollars or more to defeat legislators who threaten the freedom of any Californian to buy and maintain a firearm.

Those who agree with Richardson are one-issue voters. They don't care how a politician feels on a thousand other issues. Politicians know that if they support gun control, this vocal minority will vote in a block and will raise plenty of money for the opposition candidate. In many districts, support for gun control is a political death warrant.

That's why a gun-control testimonial to Ryan, Milk and especially Moscone will not be built in Sacramento.

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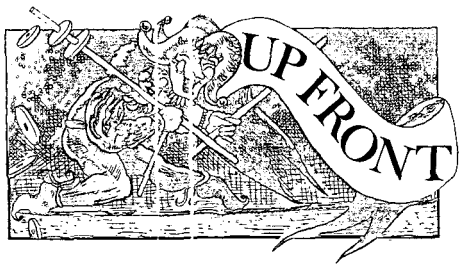

Next time you receive a stiff bill from a physician, try pointing out that at least one item of cost for a doctor has actually decreased this year. The license fee a doctor pays the state has been lowered from $168 to $144 a year.

Californians in Congress winning "awards," favorable and unfavorable, from *The Washingtonian* magazine: Profiles in Courage — Pete McCloskey; Off-the-floor Specialists — Alan Cranston, Leon Panetta; Most Likely to Succeed — Panetta, John Burton; Most Liked by Colleagues — Del Clawson; Comebacks of the Year — Phil Burton; Hard-to-ignore Laurel — John Burton, John Rousselot; Best Dressed — Yvonne Burke, Ron Dellums, Peter Stark; Worst Dressed Wreath — Charles Wiggins; Will Rogers Wit Award — John Burton; Yosemite Sam Trophy for Temper Tantrums — John Moss; Best of the Bizarre — Robert Dornan; Mensa Medal — John Burton; "Who Me?" Wreath — John McFall, Ed Roybal, Charles Wilson. This one could have been added: Best Job of Wooing *The Washingtonian* — John Burton.

Exiled in Sacramento for 3½ years, the *San Francisco Chronicle's* Larry Liebert finally worked his way back to his beloved City. He was replaced in the *Chron's* Sacramento bureau by Jerry Roberts.

Re-elected by a slim margin, Democratic Assemblyman Carmen Perino of Stockton now is in triple jeopardy. He is being prosecuted on two misdemeanor charges involving allegedly deceptive campaign mailings. His Republican opponent, Doug Carter, is asking that he be declared the winner. And a recall move is underway, just in case Perino survives the court actions. Doug Carter may keep losing, but he never quits.

Peregrine Worsthorne wrote this in the September 3rd edition of the *London Telegraph:* "In California you either hit the jackpot or the bottle, and, although there are more smiling faces than anywhere else on earth, so are there more lunatics per capita. More orange juice is drunk and more Valium swallowed. Clearly 'snake pits' and Paradise are the reverse sides of the same coin."

Table of CONTENTS

Politics of the '80s 4
By Ed Salzman
Picking leaders by TV, making laws by initiative – will California continue its wacky ways into the next decade?

The GOP's secret weapon 7
By Gail Diane Cox
When Howard Jarvis wrote "personal" letters last fall for 20 Republican candidates, opponents should have hoped for a postal strike.

'Mr. Middle-America' 10
By Hal Rubin
Relaxing at home, Mike Curb tries out some new theme songs for his Sacramento debut.

UPSET COUNTRY
In Long Beach and Fresno, some Democratic "shoo-ins" were shut out last November. Some of the reasons why:

The sophomore jinx 14
By Bob Houser

The anti-Krebs elixir 15
By Tom Kennedy

The new Gann plan 17
By Ed Salzman
Controller Ken Cory could become a real power if the spending-limit initiative wins in 1980.

Leo Ryan's favorite things 20
By John Fogarty
The maverick congressman died as he had lived – marching to the beat of a different drummer.

Underpaid and overpaid 22
By Marcia Meier
State employees are angry about salary and hiring freezes – but what do statistics say about their pay picture?

Fighting the FEPC 25
By Kit Stolz
The insurance industry is determined to beat the charge that it discriminates profitably, against women employees.

How to evade the Brown Act 28
By Kerry Drager

Interning up the ladder 30
By Charles M. Price

That grand-jury decision 32

Rostrum 33
Capsules 34
Newsmakers 6
Leo Rennert 35

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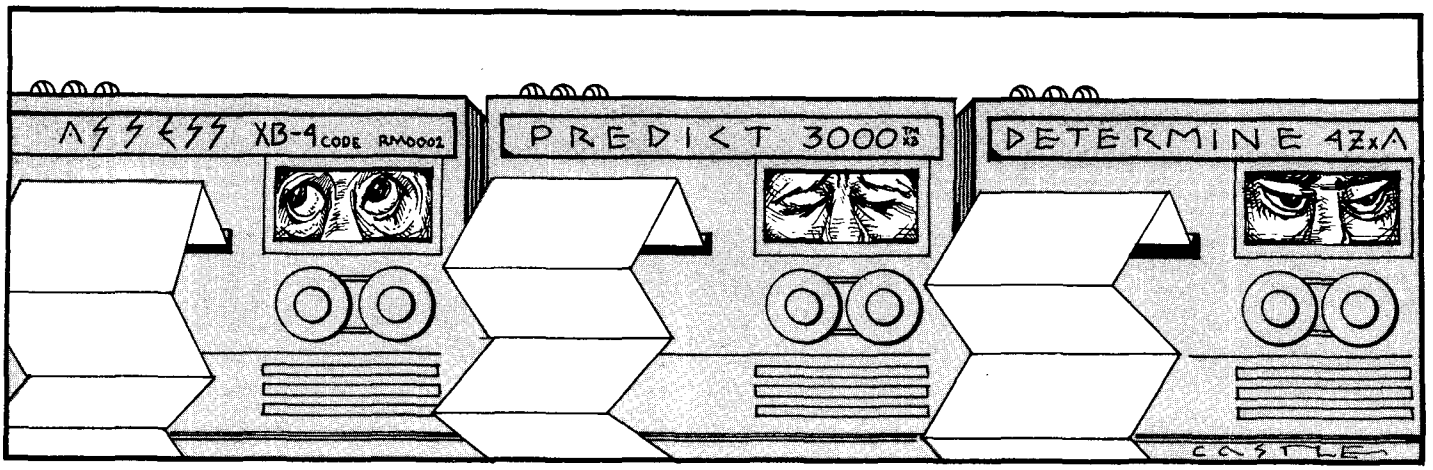

A GAZE INTO THE WACKY WORLD OF

CALIFORNIA POLITICS IN THE 1980's

By ***Ed Salzman***

When the history of California politics in the 1970s is chronicled (on a plastic disc from Mike Curb Productions, of course), the lead characters will be those modern masters of media manipulation, Republican Ronald Reagan and Democrat Jerry Brown. The central issues will be two successful initiative campaigns, the Political Reform Act of 1974 (Proposition 9), and this year's Proposition 13, the Jarvis-Gann property-tax bombshell.

Politically, the book is just about closed on the 1970s because the next round of elections will be held in the 1980s. If anything, the 1970s contributed to public distrust of government and politicians. The initiative fever indicates a lack of confidence in the Legislature. Only one-third of the state's adults bother to vote. The rest often think they are choosing between a lesser of evils.

What will the 1980s bring? Will the politics of California be marked primarily by revolution through the initiative and election through media magic? Will the political parties gain some strength? How will campaigns be conducted? Who will rise to power? What will be the result of the reapportionment of 1981?

It would be difficult to gaze into a crystal ball and come up with anything but a pessimistic prediction, based on the state of California politics today and compared to what an ideal governmental system ought to be. The missing ingredients: full participation in the process by an informed public, clear choices between candidates and parties on the issues of the day, the ability of the voter to distinguish between the animate and the plastic, and a political establishment that responds first to the needs of the electorate and secondly to the needs of those in power.

As we start the final year of the current decade, there is no difficulty spotting political trends. They may well change in short order, however, given the volatility of the political climate in California and in the country today. But based on the signs of the 1970s, here is where the politics of California are headed in the 1980s:

• ***Campaigns.*** Money, media and charismatic personalities will dominate the election process. Increasingly, the public will see less and less of statewide candidates in the flesh. Huge amounts of money will be raised to pay for television commercials and sophisticated computerized mailings. Public opinion polls will play an even larger role in the process. More and more media outlets will use them to take the temperature of the voters. And more campaigns will employ pollsters to find out what issues or "buzz words" will appeal to the electorate. Candidates will tell the voters less and less about themselves and how they feel about issues; instead, they will go with the flow of public sentiment. Political action committees established by business and labor organizations will be the prime source of campaign funding, and those candidates who choose to run modest

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campaigns with small donations from the home folks may be in big trouble. Campaigns will be dominated by those with the expertise in packaging candidates for television and drafting convincing computer letters. In short, the era of McLuhanism will be in full flower.

• ***Party organization.*** Traditionally, parties have been extraordinarily weak in California and that will continue to be the case. The politics of the '80s will revolve around the decade's Jerry Browns and Ronald Reagans, rather than the programs and machinery of the Democratic and Republican parties.

• ***Party loyalty.*** If the 1970s are any indication, loyalty to party may nearly disappear during the 1980s. Californians are noted for their independence (partly because of the weak party system established by Hiram Johnson), but past records show that there have been significant degrees of party loyalty and party domination over the years. In this century, the Republicans dominated state government through 1958, and the Democrats have controlled thereafter, with a couple of exceptions. We are apparently now entering an era in which neither party can take much for granted. Republicans can win in areas that have been traditional Democratic strongholds, as was the case in the 1978 elections. And Democrats can and do win in the former GOP heartland below Los Angeles County. Voters are no longer so interested in the party designation after a candidate's name. They are exposed to a candidate's personality via television and know how candidates stand on the more emotional issues of the day. The voter is more apt to vote for personality and pocketbook than political party. That means that there should be more competitive races for congressional and legislative seats, as well as for those statewide offices which have usually been up for grabs.

• ***Reapportionment.*** The redistricting that follows the 1980 election will undoubtedly be drawn without benefit of significant Republican consultation. Assuming that Jerry Brown is still governor in 1981, the only GOP chance to hold off a Democratic reapportionment is to capture one of the two houses of the Legislature in the 1980 election. Is that likely? The Republicans blew their opportunity to get close in the Senate by making a net gain of only one seat this year. (They could lose that gain in the special election to replace the new attorney general, Republican George Deukmejian.) And the Senate outlook for 1980 shows that there is virtually no chance that the GOP can pick up more than two seats in 1980. Actually, the Republicans might be lucky to break even. The Assembly outlook is no better. The GOP would have to post a net gain of 10 seats to get a 40-40 tie in the Lower House, and that's beyond any reasonable expectation.

Yet the Democrats may find it difficult to draw maps that will assure continued Democratic control over the congressional delegation and both houses of the Legislature — especially at a time of low party loyalty. That is because the areas in the state entitled to more representation surround Los Angeles County — the rapidly growing areas of Orange, San Diego, San Bernardino, Riverside and Ventura counties. These are swing areas of the state where Republicans could do well. For the short term, the Democrats should be able to protect incumbents. But as Democrats leave office, the Republicans could pick up seats now held by Democrats in Orange and San Diego counties. Should a strong Republican trend develop by the end of the next decade, the Democrats could surrender control of the Legislature — even though they will have their hands on the grease pencils and census tables in 1981.

• ***Minor parties.*** One danger sign for the Republicans is the rise of the Libertarian Party. Ed Clark, the Libertarian candidate for governor this year, waged more than a token campaign and received almost six percent of the vote.

If the Libertarians can retain some momentum, they could become a potent force in the state. Most of those who vote Libertarian are either casting protest votes against both major-party candidates or expressing support for the *laissez-faire* philosophy of the Libertarians. Although the Libertarian platform has something to appeal to liberals (an end to victimless crimes), it appeals primarily to conservatives because it calls for a virtual end to government involvement in business. The Peace and Freedom and American Independent Parties will continue to be almost meaningless in the political process. The ability of the Libertarians to get a foothold in 1978 is another indication of the lack of commitment to the major parties that has been developing in California.

• ***Minorities.*** Much has been written about how California is on the verge of becoming the first minority state in the nation. (That isn't quite true: Hawaii is already a minority state.) While it may be true that the so-called minorities soon may comprise a majority of the California population, there is a giant step between that statistic and control of the organs of government. The biggest element in the minority mix will be the Hispanic people, and they are notorious for their lack of participation in the political process. The Chicanos vote in small numbers, and they have yet to produce statewide political leaders. Their representation in the congressional delegation and in the Legislature is fairly stable, and there is nothing on the horizon to indicate that they will exercise their political potential. Should the Chicano political awareness begin to match that of the state's Black population, the California election equation could be revolutionized overnight. At this point, however, there is nothing to indicate that a wave of political participation will hit the huge Chicano community during the next decade.

The Blacks have been a significant force in the politics of California in the 1970s and will continue to play an important role, especially in the Legislature, despite the statewide setbacks of the 1978 elections. (Only Superintendent of Public Instruction Wilson Riles won a statewide office this year, although several others tried and were defeated.) Asians have been making slow progress and that trend should continue.

• ***Women.*** Perhaps the most significant event of the 1980s will be the rapid rise of women in the politics of the

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state. It is not unreasonable to expect that by the end of the next decade, women will hold roughly half the seats in the state Assembly. They now have nine, and if they add six at each of the next five elections, the total would be 39. The rise of women is another factor that tends to break down party loyalty because women, more than men, tend to be interested more in issues than in the electoral machinery. There should be more women running for statewide office and winning. And the easiest prediction of all: There will be a significant increase in the number of women in the congressional delegation. (There now are none.) There will be a gradual increase in the number of women in the state Senate, as assemblywomen graduate to the Upper House. (There are now only two women in the Upper House, and neither came from the Assembly.)

• ***Judiciary.*** Judges will no longer be immune from close examination by the voters at election time. The attempt to unseat Chief Justice Rose Elizabeth Bird was not a one-shot affair. Conservative elements feel that the most profitable avenue for changing the course of government is the judiciary, which holds the ultimate power in our society, because efforts to capture the executive and legislative branches of government have generally been unsuccessful. Judges at all levels will have to guard against difficult reelection campaigns if they do anything to draw the attention of the public to their activities on the bench.

• ***New leaders.*** It is difficult to forecast future political stars unless they come onto the scene as show-business personalities or as sons of former governors. It is virtually impossible to predict who might emerge as leaders within the Legislature, especially from the minority party. At the start of this decade, for example, nobody would have picked Senator David Roberti or Assemblyman Paul Priolo for the leadership posts they won. It is safe to say that we will hear a great deal from Jerry Brown, Mike Curb and Leo McCarthy during the next few years. But what about those who are not in the spotlight every day? Here are some possibilities: Representatives Norman Mineta, Leon Panetta, Anthony Beilenson, Pete McCloskey and Robert Dornan (because he is a media personality); Senators Jerry Smith, John Garamendi and Diane Edith Watson; Assembly members Mike Gage, Bill Lockyer, Art Agnos, Willie Brown, Gary Hart, Mike Roos, Maxine Waters, Art Torres, Dave Elder and Dennis Mangers. (This list is overloaded with Democrats because there are relatively few Republicans who have had a chance to strut their stuff under Democratic rule.)

• ***Direct democracy.*** Californians will continue to make heavy use of the initiative process. More and more major issues — especially in the fields of taxation and spending — will be decided by vote of the people. The next big fiscal measure on the ballot will probably be the spending-limitation proposition sponsored by Proposition 13's Paul Gann.

• ***Labor.*** With government funds tighter than ever, public employees will become frustrated and militant. There may be a proliferation of strikes, slowdowns and work protests. There will probably be a long stretch of extraordinary conflict between public employees and public officials, and this will play a major role in the political dynamics of the state.

• ***Liberalism versus conservatism.*** The liberals are on the run and the conservatives have a full head of steam. Almost all politicians of both major parties, except those who represent campus or minority constituencies, are sounding like conservatives these days. The middle class is in revolt on economic issues, and this will be reflected by a continued loss of influence by the liberals. It may be especially difficult in the next few years to decide who is more conservative, the Democrats or the Republicans. The politician who proposes a tax increase will be putting his or her neck on the block. Welfare spending will increase slowly, and then only because of federal regulations. Educational institutions may not be able to live in the style to which they have been accustomed, and the pursestrings will be drawn tight at both the state and local levels of government. California should be a conservative state in the 1980s.

In conclusion, here's a rock-solid prediction: California will retain its reputation as the kookiest state in the nation, whether we deserve it or not.

Newsmakers

Changing of the guard

By a vote of 6-2, Supervisor **Dianne Feinstein,** 45, was elected mayor of San Francisco by the Board of Supervisors. She will fill the year remaining in the term of **George Moscone,** who was killed in his office, as was Supervisor **Harvey Milk** . . . Former Assemblyman **Dixon Arnett** of Redwood City ruled himself out of the race to succeed the late Congressman **Leo Ryan.** Arnett, a Republican, accepted an appointment as director of the Center for California Public Affairs at Claremont Men's College. A large field was expected in the special election to fill Ryan's seat . . . Secretary of State **March Fong Eu,** apparently eyeing a race for governor or United States senator, moved her official address to Los Angeles from Sacramento.

Former state Senator **Nate Holden** announced that he will run for the Los Angeles City Council this year, challenging incumbent **David Cunningham.** Mayor **Tom Bradley** will support Cunningham . . . Following the November election, Governor Brown found himself with two chiefs of staff, **Gray Davis** and **Richard Silberman** (who filled in for Davis during the campaign). Brown resolved that problem by naming Silberman director of finance. He succeeds **Roy Bell,** a civil servant who slipped down to the number-two place in the department.

Assemblywoman **Carol Hallett** has notified the state controller's office that she is refusing to accept the 10 percent pay raise that went into effect for lawmakers last month. The controller's office would prefer, because of legal problems, that any lawmakers not wanting the raise give the money to charity.

In a San Diego speech, Associate Justice **William P. Clark Jr.** of the state Supreme Court criticized the court's majority for decisions he claims are oversolicitous of criminals and which erode property rights . . . **Cruz Reynoso,** an associate justice of the appellate court in Sacramento, finished second to Chief Justice **Rose Elizabeth Bird** in percentage of "no" votes received by appeals judges on the November ballot. Bird received 48 percent and Reynoso 38.5 percent, according to the secretary of state's office . . . Governor Brown nominated a former member of his staff, **Marc Poché,** as an associate justice of the court of appeals in San Francisco. Poché is now a superior court judge in Santa Clara County.

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The GOP secret weapon: Howard Jarvis' signature

By GAIL DIANE COX

The trick was to draw the best from two worlds: on one hand, the cost/benefit of a standardized letter mailed out in coordinated Republican races statewide; on the other, the impact of a letter so individualized that the recipient would feel Howard Jarvis himself had tapped it out on his own incorrigible typewriter. And the letters couldn't be your usual milk-sop endorsement. Jarvis had to detail just why a local Democrat was "a threat to our Proposition 13 victory."

It all came together in the computer of Butcher-Forde, a political consulting firm based in Newport Beach. Thanks to modern technology, a staffer could explain "the format was the same on all the letters — the only thing that was different was the actual text."

The actual texts were tailored with the help of campaign managers in ten Assembly races, four Senate races, and six congressional races. In the legislative contests, they were stunningly successful.

The Jarvis-letter scorecard:

- ***Congress*** — Three Democrats won despite the letter: Tony Coelho of Merced, Leon Panetta of Carmel Valley and Jim Lloyd of West Covina. But the letter played a role in defeating Democratic incumbents John Krebs of Fresno and Mark Hannaford of Lakewood. It also helped Republican Wayne Grisham of La Mirada retain the GOP seat of retiring Congressman Del Clawson.
- ***Senate*** — Democratic incumbents John Dunlap of Napa and Arlen Gregorio of San Mateo were defeated in part because of the letter. John Schmitz of Corona del Mar also benefitted from the mailing in his fight with Democrat Ron Cordova for the seat of retiring Republican Senator Dennis Carpenter. Democrat Bob Presley of Riverside won despite Jarvis' support for his opponent.
- ***Assembly*** — Democrats came out on top in only two of the 10 Assembly districts in which the mailings were used. Incumbent Gary Hart of Santa Barbara and newcomer Doug Bosco of Occidental were the escapees. But the letters helped unseat incumbent Democrats Michael Wornum of Larkspur, Larry Chimbole of Palmdale, Jim Keysor of Sun Valley, Vincent Thomas of San Pedro and Tom Suitt of Palm Springs. The mailings helped Republican Paul Bannai of Gardena hold his seat in a Democratic district and Republican Jean Moorhead win a seat being given up by a Democratic incumbent. Republican Ross Johnson of Anaheim also was the beneficiary of a mailing in his race for a seat already held by a Republican.

Real dynamite

"I knew they were dynamite when I first read one," says Joe Zeiger, a coordinator for Republican Assemblyman Paul Bannai. "But I didn't know *how* dynamite until one day at work." Zeiger is a night-shift mechanic for Western Airlines. A fellow worker — one who had never before registered to vote for fear of being called for jury duty — had signed up before the primary to help pass Proposition 13. A week before the November election, he came running up to Zeiger. "His face was shining — this man who had never cared enough even to register — and he was totally thrilled. 'Howard Jarvis wrote me a letter,' he kept saying. Then he showed me the letter we'd sent him."

The final touch, Zeiger recounts, was when the man asked his help in filling out the enclosed questionnaire.

Previously uninvolved, low-to-middle income, white Democrats who supported Proposition 13 were pure gold; both Republicans and Butcher-Forde agree on that. Where they disagree is over who gets the credit for initiating the letter-writing project.

Allan Hoffenblum of the Republican State Central Committee says the GOP approached Butcher-Forde, Jarvis' consultants, late this summer and showed them the results of statewide surveys by four different research firms. The surveys showed that most people continue to believe endorsements have no effect on what they do in the polling booth. By itself, love or hate of Jerry Brown or Gerald Ford

Gail Diane Cox is a government reporter for KPFK-FM in Los Angeles.

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or Howard Jarvis promised very little for local candidates. But the surveys turned up something else: a powerful new desire among those who supported Proposition 13 to "get" those who hadn't.

Picking 'winnables'

"So our task in the individual districts was to tell the voters who passed 13 and who didn't," explains Hoffenblum. "And who better to carry that message than you-know-who?" The obvious choice of Howard Jarvis was bolstered by other surveys showing his 80 percent to 90 percent name recognition.

The choice of districts that were "winnable" was made at meetings of Republican legislators and state committee members. The targets weren't always obvious. Supposedly impossible districts — for example those belonging to Democrats Vincent Thomas and Jim Keysor and John Dunlap — qualified because of large concentrations of those blue-collar, Proposition 13 backers. And a number of doubtful or leaning districts didn't qualify. The most common problem was a territorial overlap between targeted Assembly, Senate, and congressional Districts. Since no household should receive more than one personalized Jarvis letter, the Republican central committee had to choose which district would benefit most.

A less common problem was the Republican candidate who had been on the wrong side of Proposition 13 in the primaries, and now would have to go it alone. Rarest of all was the candidate who refused to participate in the program. According to Hoffenblum, by September no one in a legislative race rejected the Jarvis letter if it was offered.

One reservation the Republican Central Committee had was whether the letter itself would be sufficiently aggressive. The task of coming up with the format fell to Butcher-Forde consultants, who had proved their lack of squeamishness and their expertise when they qualified the death penalty initiative entirely through hard-hitting mailings. Butcher-Forde has been in charge of Jarvis' nationwide campaign since about nine weeks before the primaries.

The consultants downplay the Republican party's role, probably because they feel Jarvis strength nationally depends on non-partisan appeal. But "in California, the Democratic Party as the Democratic Party had come out against Proposition 13 from the beginning," says Stewart Mollrich of Butcher-Forde. Mollrich is mentioned most when one asks who wrote the prototype letter. Asked for his title, a Butcher-Forde secretary suggests: "Vice President in Charge of Creation."

Mollrich identifies the letter that helped dentist Gerry Felando knock off Vincent Thomas, dean of the Legislature, as typical. It warns of the need to protect the Proposition 13 victory from professional politicians; it asserts that the choice is simply between a tax-cutter and a tax-spender. Catch phrases repeated in other letters include "some politicians just haven't gotten the message" and "he voted to spend $47,000,000 of our tax money to finance forced busing."

The local touch

The busing phrase appeared regularly in campaigns in which a Republican challenger took on a Democratic incumbent in the state Legislature and takes advantage of the nearly unanimous passage of the post-Proposition 13 bail-out bill. Atypical is the letter endorsing Republican incumbent Bannai. Since he did not oppose the bail-out bill, the letter substitutes the warning that Democratic challenger Cindy Wear is backed by "boss" Leo McCarthy. McCarthy was also useful as an alter-opponent in Orange and Sacramento County races where both sides contended for an open seat.

But Mollrich seems most proud of the way information supplied by local campaign managers dominated the letters. "Sorry I missed you at our 'Keep the Heat on Rally' for Ross

HOWARD JARVIS

October 1978

Mr. Robert E. Bush
1639 Oakhorne Dr
Harbor City, Ca. 90710

Dear Mr. Bush,

Some politicians just haven't gotten the message of Proposition 13. That is why I'm writing to urge you NOT to vote for Assemblyman Vincent Thomas.

Vincent Thomas has served 38 years in the State Legislature...longer than any other politician in California history. If Vincent Thomas had shown any leadership to put an end to high taxes and irresponsible government spending, Proposition 13 would not have been needed.

Instead, Vincent Thomas has consistently voted for those big government spending programs we don't need.

Just this year, for example, he voted to spend $47,000,000 of our tax money to finance forced busing of Los Angeles school children. I BELIEVE THIS IS WRONG.

But, Mr. Bush, you can help protect our Proposition 13 victory by voting for GERALD FELANDO.

I know Gerald Felando personally. You can trust him to be concerned for the taxpayer, and to work to make government start responding to the needs of the people at a cost we can afford.

Your choice is clear: GERALD FELANDO, the tax cutter... or VINCENT THOMAS, the tax spender.

I urge you to vote for Gerald Felandc.

Sincerely,

HOWARD JARVIS

P.S. The fact that Assemblyman Vincent Thomas voted $47 million of our tax money for forced school busing shows he still hasn't gotten the message of Proposition 13.

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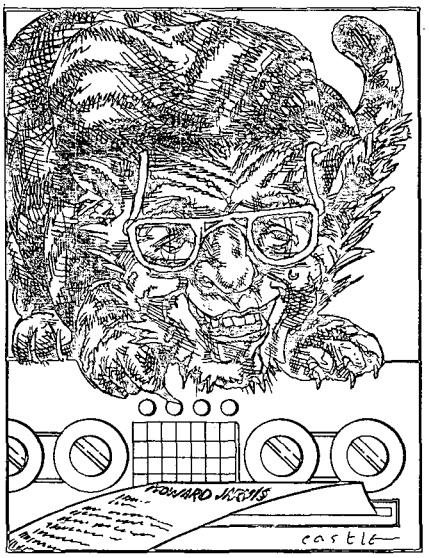
Johnson last week," begins one Jarvis letter — with an alternative version for those who attended. Santa Barbara voters are told that Democratic incumbent Gary Hart spent $165,409 in office expenses. Marin County voters are reminded their incumbent once labeled Proposition 13 irresponsible. And anyone in Menlo Park who worried about Republican Marz Garcia's name was assured he was a former vice president for Bank of America.

Campaign managers decided whether the mailing should go out early enough to bring in contributions, or late enough to lull the opposition. Individual precincts were eliminated if managers felt a Jarvis link wouldn't be helpful. (In the 53rd Assembly District, for example, Hawthorne and Lawndale got the letters; the town of Gardena, with its new influx of minorities, was selected out.)

More than a million and a half letters came out of the Butcher-Forde computer, and, according to the firm, the degree of standardization kept the price of the entire package down to about $300,000. Individual compaigns — sometimes with the help of the Central Committee — paid the bills.

Two central California congressional candidates chose to run a line under Jarvis' signature explaining the letter was bought-and-paid-for political literature. Both lost. But there were very few losses. Republican coordinators estimate the letters alone were worth 5 percent to 6 percent in a close race.

Regarding the three unsuccessful legislative races, consultant Stewart Mollrich only says darkly that some local campaigns were better run than others. He feels the only way his letters' effectiveness could have been



heightened, from his end, would have been to tie them to a statewide television spot in which Jarvis would have told viewers he was analyzing their districts and promising, "I'm going to send you a letter telling you where your candidates stand on tax reform."

Jarvis' seal of approval

And what about Howard Jarvis himself? Republican Central says he saw every letter. Butcher-Forde says Jarvis initiated the whole project — not that he came to them on a specific date and proposed it, but that the idea "evolved" out of Jarvis' oft-repeated pledge to elect politicians who were friendly to his views on taxes and spending. A staffer who says Butcher-Forde acted as Jarvis' agent in writing the letters adds that each letter was cleared with him and his personal attorney.

Jarvis' attorney, Trevor Grimm, says he alone did what approving was done — and for a while he was worried that he wasn't going to get a chance to do that much "because I don't think I got copies right from the start." But, Grimm says, "Finally I called and said 'Look, don't send out any more without me looking at them.' " Grimm's file of approved letters is incomplete, but he says the letters he saw were very impressive.

Of his role as Howard Jarvis' proxy in the campaign, Grimm says he tried to leave the politics to Butcher-Forde and concentrate on making sure that what was said was "bad but not too bad. Just bad enough that it's still legal — which is fairly broad in politics."

In practice, Grimm rejected none of the letters, suggesting only minimal deletions and simplifications in grammar. In the letter endorsing Eric Seastrand, Grimm has Jarvis say "my plan" instead of the suggested "a constitutional amendment." And Grimm lined out the charge that Democrat Dennis Kazarian "only moved into your district so he could run for office" in the 33rd Congressional.

Agents and proxies notwithstanding, the victorious candidates are clear in their own minds about whom they have to thank. Oral surgeon Felando — who describes himself as "a nobody who came out of nowhere" — says he thinks it's fantastic that Howard Jarvis was willing to do what he did. "This man really believes in what he's doing, and if there's somebody who's going to help him, he had no qualms about helping them," Felando said the day after he unseated one of the Democratic "unseatables," 70-year-old Vincent Thomas. And Felando had praise to spare, telling reporters, "I have to commend the Postal Service on this whole campaign."

The latest in sex

Now you can be up to date on one of the most titillating aspects of California life — the state's sex laws.

Planned Parenthood Associates of California has just published a 1977-78 supplement to its 178-page Sex Code of California. The 24-page booklet contains details on all changes in the sex laws enacted by the 1977-78 Legislature.

The Sex Code, published last year by the Planned Parenthood organization, tells you everything you might ever want to know about the state's laws on abortion, rape, veneral disease, incest, nudity, prostitution and dozens of other subjects.

Don't be afraid to ask for a copy. Prices: The supplement alone — $2.07. The book and the supplement — $6.31. The book alone — $5.25. All prices include sales tax. Send orders to the *California Journal Press*, 1617 10th St., Sacramento 95814. Payment may be made by check or by sending your Visa or Master Charge number.

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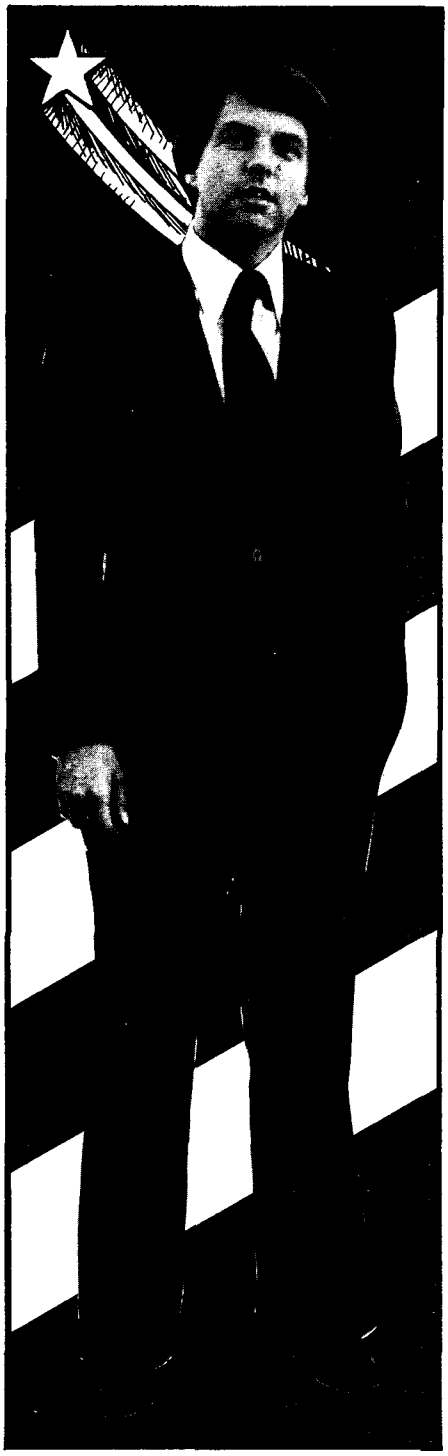
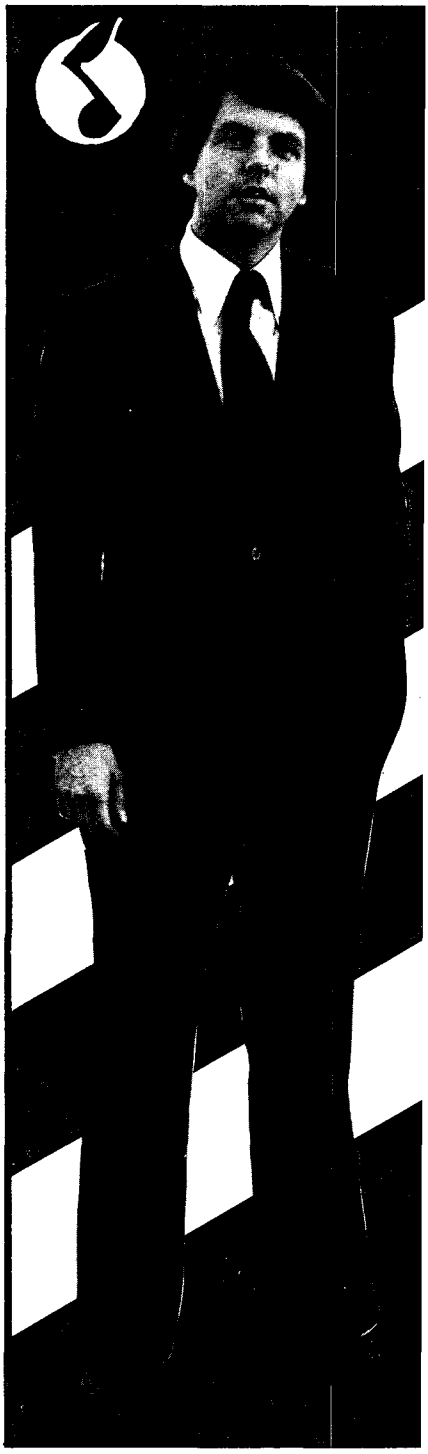
Mike Curb 'Mr. Middle America'





By Hal Rubin

The home of California's new lieutenant governor is a $6 taxi ride from Los Angeles International. Far above the street-level fumes and Sunset Strip lie the manicured gardens and elegant mansions of Trousdale Estates. The Mike Curb residence, a low, white building, is California Modern in style, with a hint of Capri. Three impressive vehicles occupy an attached garage off the curved driveway.

Inside, the living room is dominated by a grand piano. On a small table is a picture of Curb and Linda, his wife of about one year. (She is the daughter of Jerry Dunphy, a veteran television news anchorman in LA.) In the den, one wall is virtually covered with framed gold and platinum records, both singles and albums.

In the record business, if you sell 500,000 units it is called "going gold." To "go platinum" requires one million albums or two million singles. About 30 gold and 10 platinum records adorn Curb's den. Among the discs is a framed photo of Richard and Pat Nixon posing with Curb and his musical group, the Mike Curb Congregation. Autographed by the Nixons, the picture was made in Washington in 1972 when the singers entertained at the White House.

Nearly every room in the house has a phone. *Billboard*, the music industry's trade journal, and *Los Angeles* magazine are on the coffee table. A story about Curb's November election victory covers page 3 of *Billboard*. "Mike Curb's Post Will Not Curb His Label," says the headline.

There are three books in the den. One appears to be a novel. The other two are non-fiction: *The Regulators* by Louis H. Kohlmeier Jr., and *To Tell The Truth*, by William E. Simon, with a preface by Milton Friedman.

On the west side of the house, a swimming pool occupies most of the patio area. Far below, under the smog, is Los Angeles.

Making his entrance

Outside, on Carla Ridge, there was commotion. The door behind me opened and Curb made his entrance, breathing hard, apologizing for being late, explaining how hectic his life has become.

Lieutenant Governor Curb is 35, but if you dressed him in corduroys and a slipover sweater he would blend nicely among the squeaky-cleans at Pepperdine College. (He is on the Pepperdine board of directors.) It is easy to understand why *Billboard* has described him as "The Sixth Osmond." In an industry where males sport pounds of jewelry, shirts open to the navel, and peacock colors, Mike Curb is the flip side of flamboyance.

His hair is stylishly long. He is clean shaven, and he

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favors pin-striped blue business suits and dark ties. Junior executives from the Bank of America try hard for the look Curb wears comfortably, with just enough mod to make it modern.

When Curb had relaxed with a soft drink, I verified some biographical details provided at his campaign headquarters on Wilshire Boulevard. Along with the background material, a press person had provided a copy of "The Speech," Curb's campaign staple. It read like a recycled version of Reagan's "The Speech."

* * *

Mike Curb was born on Christmas Eve, 1944. He has a younger sister, Carol. His parents came to Compton when he was five, then moved to the San Fernando Valley. Curb attended Van Nuys Junior High, Grant High School and San Fernando Valley State College. During the war his father was an FBI agent.

Curb's college career ended before he reached his junior year. He had not declared a major, although he was interested in psychology and music. There were a few years of piano and violin lessons, but he is largely self-taught in music. He plays guitar, piano and organ. When he was in high school and college he had his own band. Engagements at fraternity parties and dances helped pay his way. Aside from music, Curb is a big fan of auto racing — sprint and stock. Whenever he can he attends races.

In 1964, when Curb was 19, he helped produce a commercial jingle, "You Meet the Nicest People on a Honda," for an advertising agency. That jingle was his first step into the music industry. He wrote other commercials and went on to compose motion picture sound tracks. The next year he also started Sidewalk Productions, which became a successful record company. Four years later he was named president of MGM Records. These positions led to Mike Curb Productions, Incorporated, and to Warner/Curb Records, of which he is the president.

Among his best-known performers are Donny and Marie Osmond, the Osmond Family, Shaun Cassidy, Leif Garrett, Debbie Boone and the Mike Curb Congregation. Garrett has sold more than three million units and Cassidy 13 million. Last year Warner/Curb sold $22 million worth of records by Cassidy and Debbie Boone alone.

Although Mike Curb may be a political neophyte, he is an accomplished packager and merchandiser. Consider the odds: Last year the American record industry produced more than 2,500 albums. About 300 will make a decent profit. Reaching the million mark with a record is a major accomplishment. Curb's success in merchandising apparently works for himself as well as for others: His first time out in politics, he outsold his competitor, Lieutenant Governor Mervyn Dymally, by 600,000 votes.

* * *

"We spent about $900,000 in the primary," Curb was telling me. "In the general election — about $800,000." About $400,000 came from Curb himself. He outspent Dymally by eight to one.

Could he have won without all that money? Curb settled back thoughtfully. "Everything inside of me wants to say yes to that question, but the answer would have to be no."

He paused to replay that statement in his head, deciding to modify it: "I don't think I would have been able to win without the success of our fund raising — not just my own investment — my own loans to the campaign — but the contributions of many people who believe strongly.

"It's very complicated," he said, stretching his legs. "A lot of times people would come to me — political figures — and ask to use my entertainers. Like Sammy Davis Jr., who records for my company, and Donny and Marie Osmond. (An

early GOP assignment for Curb was as co-master of ceremonies, with Billy Graham, of the 1973 presidential inaugural festivities.) In 1975, Governor Reagan asked me if I would take a year off from my business and put together an organization for him to go to each of the 58 counties."

Curb agreed and became chairman of Reagan's California presidential campaign. After Reagan lost to Ford at Kansas City, Curb was elected to the Republican National Committee.

"It was my job to come back and unite the party," Curb recalled. "I became Ford's campaign chairman in California." Ford won in California, even if narrowly, and Curb was named to the executive committee of the Republican National Committee.

"A lot of people thought I should move forward," he said.

The hyping of Curb

That was in March 1977, about the time that *Billboard* came out with a 36-page supplement devoted to Curb.

Billboard is to musicians what *Variety* is to actors. Because *Billboard* is the obligatory medium to use for hyping a record or a singing group, it was the obvious place for Curb to tell the world about his imminent entry into politics. On March 5th, 1977, *Billboard* carried the slick-paper supplement with a full-color portrait of Curb on the cover. Surrounding his face was the title: "The Many Worlds of Mike Curb." Inside were four lengthy biographical pieces about the record producer, together with dozens of photos of him and his performers.

Articles and pictures filled about eight pages; the other 28 featured advertisements with congratulations and grateful thanks from singers who record for him and from industry associates. At least four pages were paid for by Curb's own companies. In one article Curb's lawyer, Dick Whitehouse, describes his client as "the most brilliant personality I've ever met in the industry."

The articles are vague about his specific talents other than to say that he knows how to bring the right people and the right songs together. At the end of the last article came this teaser:

"Does he have political ambitions?

"Perhaps. There are many who are trying to talk him into running for a high California office next year. Whether or not he does remains to be seen . . ."

That's the Boy Wonder of the Music Industry — the first candidate who ever announced his political debut in *Billboard*.

Who constituted the heirarchy of the Republican Party

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urging him to seek political office? Margaret Brock, Ed Dombroski, Holmes Tuttle, Henry Salvatori — the major power brokers, the kingmakers, of Southern California. They put their money on Mike Curb, just as they had in earlier years on Richard Nixon and Ronald Reagan. There were even serious discussions last year about sending him against Jerry Brown, Curb said. Evidently prudence dictated a lowering of expectations.

But Curb insisted his support is not limited to Southern California. He expanded the list to include David Murdock, Leon Parma and Virginia Rice. "And people from agriculture encouraged me — Harry Kubo. I met him back in 1976 when he was working on Proposition 14. Al Zapanta, the highest ranking Mexican-American in the Ford Administration, encouraged me. As word got out, more and more people started to encourage me to do it. It came from all sides — young people, minorities, agriculture, the music business. Casey Kasem (a Los Angeles disc jockey), a good personal friend who was never before in politics, did all my commercials."

Curb said that his initial campaign money came from a music industry fund raiser, but that agriculture was his second greatest contributor. "Agriculture felt somewhat frustrated. I've always been interested in agriculture. I was endorsed by all segments of agriculture. Agriculture feels I understand about free enterprise."

Al Zapanta, the co-chairman of his campaign, took Curb into many Mexican-American communities. "We received so much support from Mexican-Americans and from the Chicano community. My sister did commercials in Spanish. I will represent their interests, yet at the same time I received a lot of support from agriculture."

The opportunity to serve

Curb credited his grandmother — a Democrat — with developing his interest in politics: "While I may have had interests in sports and music, my grandmother — who was 100 percent Mexican and spoke Spanish — has a tremendous commitment to our political process. She literally insisted that I be involved politically. Even when I was only five and six, I was watching conventions on TV. She constantly talked about political issues and had a major impact on my interest in politics."

With his background in business and his ties with the affluent, how does Curb view his role as public servant? The question produced an extended and impassioned monologue:

"We have a political process in this country — I didn't create that political process. I'm a young individual who has the courage to run at just about the time in my life when I could have enjoyed the products of what I worked for 15 years, night and day, without any sleep some nights. I'm just at the point when I could enjoy it.

"I'm married now, and my wife is pregnant. I've got a nice home. I've got a nice car. I've got an opportunity to travel. I'm just at the point where I can enjoy life for the first time. And now here I am going to Sacramento, with a Democratic Legislature in both houses, with a Democratic governor. I've gone through a tough primary in my own party, and a very difficult general election where I've been attacked in every way, shape and form . . . I'm just at the point where I could be enjoying life and somehow if you ask me to figure out how . . ." He sighed and shrugged with a gesture that indicated he still hadn't absorbed the enormity of what happened to him on November 7th.

"This was not a plan of mine that I started five years ago, or even two years ago," Curb continued. It was something people suggested I should do, and so, when you say 'my ties' — I have less ties with the individuals you are thinking of than any Republican in the history of this state ever running for office.

"Let me also say, my contribution from my own business to my campaign was paying for the right to serve, which is in effect what I had to do. Think of my salary for the next four years. What I'm saying is, look at my contribution and then look at the salary I'll be receiving. So I'm paying for the opportunity to serve, in a sense." Curb leaned back, satisfied he had explained the full implications of his sacrifice.

Apparently I had touched a sensitive point. I waited for more:

"Part of my reason for putting up that contribution (the $400,000) was to avoid going to certain people for contributions. Now, you can also pick up our statement and see large contributions from certain individuals, but these contributions would have been made to anybody from sources who traditionally make their contribution by giving money rather than time. I never begged for contributions, just as I never begged when I started my business. I went on my own. And in this campaign I went on my own. There are people who liked what I said and gave me some nice contributions. And we didn't reject contributions from anybody from any area."

Do any of the contributions possibly represent debts payable? "Not only do I feel I have no debts," he said vehemently, "I think it would be reprehensible if I looked at political debts from that standpoint. By the same token, I am appreciative of the contributions I received." He sipped his cola, smiled and added, "Now, it is true, of course, that those who make contributions are usually those who agree with the philosophy they've heard."

Throughout the campaign, Curb made use of the media to portray himself as an All-American boy. The November 6th

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issue of *New West* magazine attacked that image in an article: "Mike Curb: Exposing the Myth of the Choirboy Candidate." The article charged that a probe of Curb had uncovered a trail of broken promises, questionable business conduct and lawsuits charging breach of contract and fraud.

Curb responded to the *New West* piece by charging that the magazine looked up three or four disgruntled former employees. He doesn't mention his former bosses who were quoted. He claims he is starting a libel suit against the magazine's publishers. But after a campaign that probably set a new record for mud-slinging on both sides, Curb will be advised to tend to his image and avoid reopening old controversies.

Image-tending is very much on Curb's mind. He recommended a recent article in *New York* magazine (published by the same corporation as *New West*) which notes his success in the "kiddie music" field.

"There's a magnificent article," he said. "They credit me with having been successful in Middle America music. There's a whole story where they literally devote the issue to me — they devote a whole story to me, practically, and to artists of mine like Leif Garrett, Donnie and Marie, Debbie Boone, Shaun Cassidy, and so forth . . ."

"Do you think of that as Middle America music?" I asked.

"Well, that's what they refer to it as. In the story they credit me with being the one record company that has been highly successful marketing the so-called Middle America music, as they put it, aimed at a youth audience."

A note from Nixon

Actually, the *New York* magazine article covers several producers. Curb is described as one of the few record producers able or willing to go after the market of "nubile nymphs and micro-boppers who are too young to wear bras." Nowhere in the article is there any mention of "Middle America music," which is apparently Curb's euphemism for "Pube Rock."

Curb received a congratulatory note from Richard Nixon after the election and responded with a phone call to San Clemente to thank the former president.

Why didn't any of the state's Republican candidates seek a Nixon endorsement? Republicans prefer to win on their own instead of riding coattails, Curb said. He assured me that none of the Republicans was snubbing Nixon.

Before moving to Sacramento, Curb concentrated on putting together a group of advisers which he calls his "transition team." Barring last-minute changes, that team is likely to include former Assemblyman Dixon Arnett, an unsuccessful primary candidate for secretary of state; Al Zapanta, formerly assistant secretary of the interior under President Ford; Ken Rietz, who worked in the campaigns of Nixon and Younger; Jack Courtemanche, finance chairman for Reagan in 1976; and Ed Meese, who was Governor Reagan's chief of staff. This phalanx of Republican veterans indicates how carefully Curb is going to be brought along. His Southern California sponsors know Sacramento can be treacherous for a political neophyte.

Before starting back down Doheny Road I dealt out Jerry Brown's name. Curb reacted like a blackjack player with a pair of sixes in the hole who had just received a jack of spades.

"I haven't called Brown and he hasn't called me . . . I have shaken hands with him — probably on three different occasions. I haven't seen him since I was elected. But I don't think there was an effort on either one of our parts not to meet."

Choosing his words carefully, Curb said, "I feel at this point as though I'm going into this with a spirit of cooperation." He explained that as president of the Senate, the lieutenant governor would normally be expected to lobby for the governor's programs.

"Of course," he smiled, "that is a role I would not be expected to play."

I tried to visualize Brown and Curb together under the golden dome: the Hollywood record hustler and the San Francisco zen-center meditator. Only in California.

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The Proposition 13 Newsletter

The first two monthly issues of **Tax Revolt Digest** plus one special report have now been published. If you're not a subscriber to this newsletter published by the **California Journal,** look what you've missed:

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The 'hidden-money' thesis for Chel's surprise defeat

By Bob Houser

Fred Chel, cut down in the flower of his incumbency, should have seen it coming. The 49-year-old, two-term Democratic assemblyman was seeking re-election in Los Angeles County's 58th District, most of which is East Long Beach.

Those are the folks who preferred Richard Nixon for governor in 1962 (California favored Pat Brown); Barry Goldwater for president in 1964 (Lyndon Johnson took the state in a landslide); and Max Rafferty for U.S. senator in 1968 (Alan Cranston was favored elsewhere). They voted to re-elect U.S. Senator George Murphy in 1970 (John Tunney got a longer count statewide) and to make Houston Flournoy governor in 1974 (Son of Brown starred in the last reel).

Those people also liked Governor Reagan's 1973 special election tax-limit proposal, running 14 percentage points out of phase with the rest of the state. And Long Beach Democrats even nominated Sam Yorty for governor over Pat Brown in the 1966 primary.

The patina of age

Democratic representation has been rare and short-lived in the area — something like 18 Democratic years in the last 90. It takes a jolt on the order of a seven-point Richter earthquake to stay these conservatives from their accustomed election-day bent. Watergate was such a shaker. Its aftershock helped Chel to take the 58th District in 1974. Democratic Representative Mark Hannaford of Long Beach went to Congress that year. He lost this year. His 34th Congressional District includes Chel's Assembly district. Both Democrats won those 1974 seats in open elections with no Republican incumbents to face.

Dennis Brown, a 29-year-old bachelor employed by a Los Angeles brokerage firm, is the new Republican assemblyman in the 58th. Long Beach lawyer Dan Lungren, 32, takes Hannaford's congressional seat. Both Republicans frankly regarded their opponents' four-year tenures as aberrations.

Democrats know this conservatism well and they know it has the patina of age: Long Beach has a retirement-age population of about 22 percent, possibly the highest of any major city in the nation. Why do Democrats buck it?

A major obstacle to a clear view of voting realities in the Long Beach area is the superior Democratic voter registration, suggesting potential for a landslide that never happens. Chel's troops helped build the Democratic margin to 57.5 percent this year, compared to 35.8 for the GOP. Hannaford sent out cakes decorated "Happy 55%" to herald that watermark in the congressional district.

Between trouncings, Democrats live on bread, water and rationalization. Thus, November's losers here have catalogued some rationales other than the easiest one: that voters were simply going home to conservatism. The irony is that this time the rationales may be correct, because neither Chel nor Hannaford were dilettantes ripe for picking. Both were hard-working representatives with respectable voices in the majority party.

In fact, the losers' rationales are supported partly by a winner, Democrat Dave Elder, who won the 57th Assembly District seat (West Long Beach and the other half of Hannaford's 34th Congressional District), after knocking off six-term Democratic incumbent Mike Cullen in the June primary.

Elder's preeminent finding after 8,000 person-to-person interviews: a high anti-incumbency factor. Secondly, the Democratic turnout "was abysmal." Elder says he sampled pre-

Bob Houser is the political editor of the Long Beach Independent Press Telegram.

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THE ANTI-KREBS ELIXIR

By Tom Kennedy

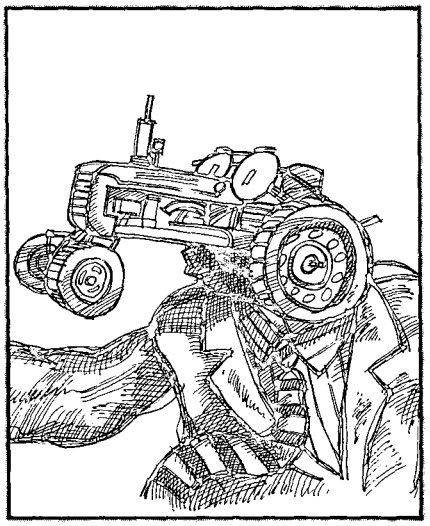
How long will Proposition 13 remain alive and well, and available for use against unsuspecting Democratic officeholders? If the magic of the Jarvis-Gann initiative is still working in two years, more Democrats may suffer the fate of Congressman John Krebs of Fresno.

In a year when Proposition 13 forced a quick turnabout by Governor Jerry Brown, a Republican who had never held political office unseated the 51-year-old Krebs, an entrenched sophomore, in the state's biggest congressional upset. The reasons: Krebs' personality, local water issues and, above all, the impact of the government-spending issue.

The Republican, Charles (Chip) Pashayan, hammered away at the economy theme and spent about twice as much as Krebs, including funds for a computer letter signed by Howard Jarvis. (See the Jarvis letter article elsewhere in this issue.) Pashayan, who had worked for the Pentagon and the Department of Health, Education and Welfare in Washington, deplored "the waste, the waste, the waste" of the federal system. He painted Krebs — actually a liberal who had moved to the right to accommodate his San Joaquin Valley district — as a big spender and made hay over the inflationary downturn in the economy.

Contributing just as much to Krebs' defeat was the fact that the feisty, independent congressman never solidified his support from large agribusiness concerns. The lesson could force a review by Senator Alan Cranston, a Krebs ally, of his relations with valley growers.

Krebs turned aside requests from major landholding interests in the Tulare Lake basin to exempt the Kings



River from the federal 160-acre limitation. Then Krebs and Cranston screamed foul when Senator Malcolm Wallop of Wyoming tried to accomplish the same goal with a rider to an unrelated bill. Eventually, Krebs did introduce a bill to exempt the Kings River, but his first draft had to be rewritten and Cranston was not convinced of its merits.

The Congressman also introduced legislation to raise the acreage limit in the 1902 reclamation act to 1,920 acres, but this never sat well with true believers among large farm interests. They favored Pashayan's aim — naive as it may seem — of doing away with the federal restriction altogether. Most farmers said they felt Krebs had done a decent job for agriculture but that he never proved to be the kind of man they wanted in Congress. There apparently is no middle ground on the issues of water and acreage that face those who earn their livelihoods from the fertile earth of the San Joaquin Valley.

Krebs turned down a $1,000 contribution from Salyer Land Company, and the Tulare Lake giant and the J.G. Boswell Company then pumped about $25,000 into Pashayan's coffers. In the end, the Republican challenger spent about a quarter-million dollars in the race.

Based on other voting patterns in the area, it appears obvious that the attack on Krebs was not part of an overall anti-Democratic uprising. Governor Brown carried Fresno and Kings counties, and they were the only counties to favor Democratic incumbent Iris Sankey over Republican Ernie Dronenburg in a large Board of Equalization district. Perhaps surprisingly, the voters of Fresno, Tulare and Kings counties all went "yes" on retention of Rose Elizabeth Bird as chief justice of the state Supreme Court. As secretary of agriculture and services, Bird played a key role in writing the state's pioneer farm-labor law — a law that is not especially popular with agribusiness.

In the race for the Assembly seat vacated by Republican Ken Maddy, who ran for governor, Democrat Jim Costa finished surprisingly far ahead of Republican Octavia Diener. Costa launched a strong advertising campaign down the stretch that Diener could not answer. He was also able to portray his opponent as a rich farm wife who had little understanding of the financial concerns of most of the district's residents.

Unlike Krebs, who had won in 1976 by almost 50,000 votes, Costa was not the target of a letter from Howard Jarvis. He was spared because the Republican high command decided that no Californian should receive more than one "personal" letter — via computer, of course — from Jarvis. And in the San Joaquin Valley the target was John Krebs.

Tom Kennedy is the managing editor of the Hanford Sentinel.

cincts in Chel's district and found turnouts of Democrats "as low as 43 percent in highly Democratic districts, compared to 83 percent turnout for Republicans."

Dennis Brown's win over Chel was 53.9 percent to 46.1 percent. Applying Elder's turnout sample to both parties' registration figures, the results come within a percentage point of the actual outcome.

The Republican challengers, with no records to defend, could hammer away at specific things like Proposition 13 (against Chel) and the "big spender" charge against Hannaford, Elder says. Such criticism "is easier to communicate than an excellent voting record or a lot of service to the district."

Elder sees a definite linkage in the Hannaford and Chel losses, pointing out that Chel carried a handful of precincts that overlapped into Democratic Congressman Glenn Anderson's 32nd Congressional District. He won those with 56.5 percent of the vote. That linkage — the anti-incumbent vote and the return to conservatism — is reflected in another Elder statistic: There was only an 8.4 percent dropoff from the total vote cast in Chel's district to the number who voted in his race; only a 4.5 percent dropoff in the vote cast in the Hannaford-Lungren race.

Door-to-door winners

Chel acknowledges the value of the door-to-door campaigning that Dennis Brown did and of the excellent get-out-the-vote effort by Republicans. But he also says Brown's "hidden money" was possibly a decisive factor. Brown's final pre-election report showed $1,300 on hand, Chel says — but with

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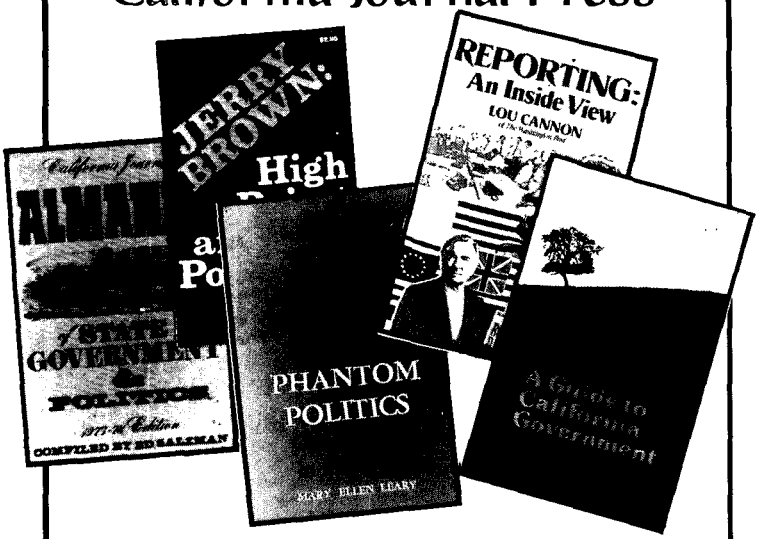

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all his mailers in the last few days, "he must have spent $50,000 more after that October 23rd campaign finance report."

Chel charges that Brown's last-minute literature was loaded with "lies and half-truths." He also says that two major Brown endorsements, using Long Beach and Lakewood official logos without permission, were repudiated by their signatories. And he adds another word for the Democratic turnout: "abominable."

The general explanation for the low turnout was that Governor Brown was a cinch for re-election. Democrats may have been confident of a Hannaford win, over-confident of a Chel win — and not too excited about anything else on the ballot.

Congressman Hannaford enlarges on Chel's hidden money thesis: "Republicans had a lot of corporate money that they couldn't legally spend on congressional races," Hannaford says. "So how do you use corporate money to help shoot down an incumbent Democrat in Congress? You throw it — just a fantastic amount — into the Assembly district that is a part of the Congressional district."

That shunt of corporate Republican money into an Assembly district, Hannaford says, also worked to knock off Democrat Jim Keysor in the 39th Assembly District and cut the victory margin of that area's Democratic congressman, James Corman, by about eight percentage points, "the same point loss that I suffered." Corman's margin still was 60 percent. Hannaford didn't have enough cushion to absorb an eight-point change.

State Senator George Deukmejian, the Republican attorney general-elect, summarizes the latest civil strife at the Long Beach ballot box this way: "Success in Long Beach has gone lately to the candidate who has rung a lot of doorbells . . . The Eastside Long Beach area has been Republican for many years."

Succeeding the 'Duke'

That area, of course, was Duke's old Assembly district. Now it's a part of the 31st Senate District he's vacating for his new state office. That vacancy has produced a spate of candidates offering rhetorical "keeping-my-options-open" hedges. They barely disguise the imminent stampede for filing when Deukmejian resigns and Governor Brown sets the date for the special election for the remaining two years of the term.

Chel most certainly would have made the race had he been re-elected, and he may even now. Hannaford also is weighing a decision. Both are reckoning with what may have been the ultimate *bete noire* in their careers — Proposition 13, the Jarvis-Gann tax-limiting measure.

Chel acknowledges that he would have to do a better job of communicating his concern for taxpayers. He thinks there's enough on the record to prove it and that the "paper giant" of Democratic registration might come to life, given the recent object lesson in inertia. Hannaford says he learned enough in his recent campaign to go the "slogan" route if necessary to prove his own claim of fiscal conservatism. And he would, he says, include in that magic rote his genuine advocacy for an end to all homeowner property taxes. "Proposition 13 didn't go far enough!" would not be a bad slogan, he suggests.

Two Republicans are among early avowed entries in the 31st Senate District race: Eunice Sato, a Long Beach councilwoman, and Ollie Speraw, chairman of the Republican Party in the district. Long Beach Councilman Wallace Edgerton, a Democrat, says he, too, will be a candidate.

Democrats, staring back at 90 years of bare sufferance of their party in East Long Beach, look blithely west. There sits Dave Elder, *nouveau riche* in giant-killing credentials and a Democrat. And there, too, sits Congressman Glenn Anderson, a November winner with 72 percent of the vote and an elder statesman among Democrats in an area where few live beyond their sophomore terms.

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POWER TO THE CONTROLLER UNDER THE NEW GANN PLAN

By Ed Salzman

On July 1st, 1980, State Controller Ken Cory will probably become the third most powerful official in state government, trailing only Governor Jerry Brown and Assembly Speaker Leo McCarthy. The reason: the controller on that date could gain a large measure of control over the budgets of every governmental entity in the state. Cory won't be able to tell state and local officials how they can spend their money, but he will be able to tell them that they can spend a specified amount and no more.

This significant jump in the controller's authority is predicated on the assumption that California voters will approve a spending-limit initiative, sponsored by Paul Gann of Proposition 13 fame, on the June 1980 ballot. Gann has not yet qualified the initiative for the ballot, but he had about four-fifths of the necessary signatures in early December and was expected to exceed the necessary 500,000 with ease by the March 19th deadline. And does anyone doubt that the proposition will pass if it reaches the ballot?

The Gann proposal, carefully written by a drafting committee, would restrict the state and every unit of local government from increasing spending in any year more than the increase in the cost of living and population. (For details, see box.) The job of policing the initiative would fall on the shoulders of the controller's office, unless the Legislature decided to establish a new bureaucracy to do that job.

The practical effects

The local-affairs and accounting units in the controller's office already exercise some measure of control over government expenditures — but that is nothing compared to the power Cory would get under the Gann plan. Even though the authority is not specifically given to him in the measure, it is significant. The controller could establish each year the allowable percentage increase for the state and for each school district, city, county and special district. He could crack down on any entity exceeding the limit, and he would have to interpret some of the more esoteric provisions of the initiative, pending court rulings. It is entirely possible that disputes could arise between the controller and a governmental agency over the proper expenditure limit in any given year. The initiative itself is silent on how the proposed limit law would be implemented. In all probability, the Legislature would have to establish a procedure for establishing the allowable percentage increases in spending each year.

But for the average citizen, the key question is what practical effect the initiative would have on governmental budgets. Barring a major change in economic conditions, both state and local government would be able to increase spending about 7 percent a year, according to Kirk West, executive vice president of the California Taxpayers Association (Cal-Tax). For school districts, the increase would be less, about six percent, because enrollments are declining and average daily attendance is one factor involved in establishing spending limits for public schools.

How does that compare with the recent rate of increase in government spending? Over the past 10 years, the total state budget has been rising at the average rate of 14 percent. But that includes subventions to local government, capital outlay and some items that would be excluded from the Gann limit. A better comparative figure is the average general-fund increase of 10 percent. According to West, a typical unit of local government has spent 11 or 12 percent more each year over the past decade, but there are great variations within the hundreds of units.

Thus, the net effect of this initiative would be about the same as the spending-limitation measure sponsored by then-Governor Ronald Reagan in 1973. The Reagan plan, which was defeated, was tied to personal income and would have reduced the amount of the increase over a period of years from 8.3 percent to 7 percent, which would hold firm starting in the 1989-90 fiscal year.

One of the key participants in the drafting of the Reagan proposal was William Craig Stubblebine, an economics professor at Claremont Men's College. He also served on the committee that wrote the current initiative. Others on the

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The 'Spirit of 13' initiative

Here is an outline of the main provisions of the spending-limitation initiative sponsored by Proposition 13's Paul Gann and expected to qualify for the ballot in June of 1980:

- State and local government appropriations each year generally shall not exceed the limit set for the previous year, adjusted for changes in the cost of living and population.
- Surplus funds shall be returned to the taxpayers through downward revision of tax rates and fee schedules during the subsequent two fiscal years.
- In the event of any emergency, the limit may be exceeded. However, the excess must be "paid off" through appropriation reductions in the subsequent three years.
- The limits may be revised upward or downward by a majority vote of the people at the state or local level. However, these changes cannot remain in effect for more than four years without another vote of the people.
- Whenever a state agency mandates a new program or higher level of service on local government, the state shall provide the funds for the costs of these programs and services. There are three exceptions: mandates requested by local government, new crimes and mandates enacted before 1975.
- State appropriations subject to limitation include all expenditures from the proceeds of taxes except those funds subvented to local government, refunds of taxes, and benefits for retirement, unemployment insurance and disability insurance. Appropriations subject to limitation at the local level include all expenditures from the proceeds of local taxes and subventions from the state; the only exception is tax refunds.
- In effect, state and local government would be prohibited from charging user fees higher than necessary to provide the product or service for which the fee is established.
- For purposes of calculating the spending limit, the federal Consumer Price Index shall be used. However, the allowable percentage increase shall not exceed the change in California per capita income from the previous year. Federal census figures shall be the basis for establishing population trends, although the Legislature is given some leeway in this area. For purposes of establishing school limits, average daily attendance will be used instead of overall population statistics.
- The limitation shall not include funds for debt service, compliance with certain court orders and expenditures of a few special districts.
- The measure shall go into effect on the first day of the fiscal year following its adoption, presumably July 1st, 1980.
- If any portion of the initiative is thrown out by the courts, the remainder would continue in effect.

committee included West, Dugald Gillies of the California Association of Realtors, James P. Kennedy of the California Chamber of Commerce, and Richard Gann, son of the sponsor. Lewis Uhler, a former Reagan Administration executive and head of a national spending-limitation committee, also participated in some sessions. Paul Gann, who doesn't pretend to be a technician, played a relatively minor role.

The most difficult job for the committee was establishing a definition of "appropriation" so that the initiative could work in the real world. There was a move to substitute a revenue-limitation approach, but that was rejected.

Stubblebine insists that the most important element in the initiative is not that it will control the cost of government but that it establishes a new system under which the people themselves will decide how much they are going to pay in taxes. This is because the proposal does not forever fix limits in the constitution. It allows the people of the state or any local entity to increase the limit by a simple majority vote.

Fees versus taxes

West thinks a key provision in the initiative is one designed to end a local-government practice that came onto the scene following the passage of Proposition 13 — sharp increases in all fees. There are those who claim that some of these fees are really taxes that are used to pay for the cost of general government, over and above the amount necessary to provide the service for which the fee is collected. Under the Gann measure, any excess fees (above the amount necessary to pay for the service) would be counted as general revenue and thus subject to the limitation. The net effect of this provision should be to reduce or eliminate the use of fees for general government support.

There are all sorts of scenarios that can be written around the fee-versus-tax concept. West says the drafters were trying to get at what he calls the "Folsom zoo" problem: "The city of Folsom has a small zoo. Let's say they get a super attraction, like some panda bears. The revenues from the zoo then might be able to support the entire city." Would that be proper? On the other hand, would it be right to allow the zoo to have so much money in its special fund that it might be forced to build a Taj Mahal of zoological gardens? West says the same problem could arise out of income from marinas, cemeteries, electricity and a variety of other fee-for-service situations.

The initiative also attacks the delicate area of state-local relations. Under legislation enacted several years ago, the state is supposed to reimburse local government for the cost of any new programs or increased workload mandated upon cities, counties and special districts by the Legislature and the governor. The state has managed to step around this pledge on numerous occasions, despite the fact that the state Board of Control was given the authority to resolve disputes over this supposed guarantee. With this so-called SB-90 provision in the constitution via initiative, it will be possible for local governments to sue the state over the mandated cost issue and to win.

Two trouble spots

At this point, it appears that there is no stopping the initiative. It is being promoted by an organization called the "Spirit of 13" and headed by the senior Gann. Among the organizations supporting the measure are the National Federation of Independent Business, the Chamber of Commerce, the Realtors, Cal-Tax, the California Farm Bureau Association and the California Apartment Owners Association. But there are two potential trouble spots:

- ***The Legislature*** could enact its own spending-limit initiative or place one on the ballot. There would then be competing measures before the public. Dan Boatwright,

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chairman of the Assembly Ways and Means Committee, has come forward with a plan that some claim is a more stringent limitation proposal than the one contained in the Gann initiative. The Boatwright formula is based on California cost-of-living and population statistics — with a 10 percent lid.

• ***Howard Jarvis,*** lead sponsor of Proposition 13, has been bad-mouthing Gann's new initiative. Should he actually oppose the measure, voters by the droves might follow his lead — as they did in several contests on the November ballot.

The open warfare between Jarvis and Gann should not have been unexpected. Their Proposition 13 marriage was one strictly of convenience. Both of them had failed in prior attempts to cut taxes and decided that they might qualify a measure for the ballot by pooling their resources. But they never were friends. Gann is an efficient and quiet former real estate salesman. Jarvis is a bombastic talker and perennial candidate for office. A classic odd couple.

Jarvis unloaded on his former partner in a television interview. He declared that "Gann is trying to promote something to make money — for Gann." In response, Gann denied he was getting anything but expenses out of the "Spirit of 13" campaign and added: "Howard has a very difficult problem with the English language. It's hard for him to get above a two-letter word. He says 'I' and 'me' very well."

Taking a back seat

Within the Legislature this year, the concern about the spending-limit initiative — if indeed there is any concern — will take a back seat to the enormous problems of implementing the second year of Proposition 13. There are many questions to be resolved: How much surplus money does the state have available for local government? How much can the state budget be trimmed? Is Governor Brown's 10 percent cutback feasible for most departments? How will local government survive with reduced support from the state and no additional revenues from local taxes? How soon can local government be told what is available, and how it will be distributed? How much can the state afford to offer public employees in pay increases?

While the Legislature is concentrating on these questions, Paul Gann and company will quietly be rounding up signatures on some 600,000 petitions in circulation. Probably long before March 19th, Gann should announce that he is over the top. It will then be up to the state's politicians to decide whether to join or fight. The best guess is that the Gann measure will have little opposition, and the day will come when Ken Cory may have his vehicle to carry him to higher office. In this era, what better job is there than government-spending traffic cop?

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Jonestown, hardly just one of Ryan's things

By John Fogarty

When Representative Leo J. Ryan decided to investigate conditions at the People's Temple settlement in Guyana, he invited several of his House colleagues from the San Francisco area to accompany him. The People's Temple was a hot issue in the Bay Area, but not one of Ryan's colleagues accepted the invitation. "I just thought Leo was off on another one of his things," said one member who decided not to accompany Ryan on the trip. The explanation was typical.

To many on Capitol Hill — colleagues, staff and press — Leo Ryan was a loner who often went off to do "his thing." He was a man with strong opinions who made up his mind on a subject and seemed driven to prove he was right. He was not always objective and he probably was never fully understood.

Ryan could bully those who disagreed with his views and then turn around and be gracious to them. He might be stubborn and unyielding in the face of opposition, or he might retreat if an opponent seemed to know more about a subject than he did.

Some who worked for him up to the time he was killed, and others who left him years before, agree that it was difficult to predict what Ryan would do next. "You never knew where he was coming from," said one source whose comment was typical. He was a man of many moods. He was capable of genuine warmth and great fury. He could be very friendly and terribly aloof.

Ryan was a good father to his five children, a son who was devoted to his mother and a brother who was close to his sisters. He was married and divorced twice. The second marriage lasted only a few months. Its dissolution was bitter for Ryan. He was a lonely man.

He was something of a father figure to many of the people who worked in his congressional office. His children were grown and the staff seemed to replace them in Ryan's mind. The tears shed by his staff when he died were genuine.

'A pro-solar nut'

Ryan thought of himself as a liberal but his public positions and voting record were moderate to conservative. He was not highly regarded by his colleagues, but in the egocentric world of Congress few members are truly admired. He had few friends in the House and did not haunt the House chamber. The Democratic leadership in the House did not count Ryan as a sure party vote. Ryan did not introduce bundles of bills. He was not a political compromiser who could build coalitions to move legislation through Congress. Instead, Ryan played the role of investigator, congressional muckraker and hell-raiser. He saw himself — in the words of his mother — "as a doer."

He was passionately in favor of the development of solar energy and vehemently opposed to the construction of more nuclear power plants. Publicly, Ryan said he had an open mind on both subjects, but privately he would say: "I'm an anti-nuclear, pro-solar nut."

As the chairman of an environment and energy subcommittee of the House Government Operations Committee, Ryan held countless hearings that turned out to be critical of nuclear power and favorable to alternative energy sources, particularly solar. His feelings led him to violate a House rule by prematurely releasing a report which concluded the cost of nuclear power would be extremely high.

A fair price to pay

Ryan was called before the Government Operations Committee and reprimanded for releasing the report. Lobbyists for utilities and pro-nuclear organizations took delight in spreading news of Ryan's punishment around town. Ryan was embarrassed but not contrite about the reprimand. He clearly thought it was a fair price to pay for getting an anti-nuclear report into the hands of the press.

Ryan was press conscious. He ran one of the more active news operations on Capitol Hill. Some said he was a headline-hunter. Others said Ryan believed that if he provided the people with the facts they would respond properly. His faith was in the people, not in the system.

His hearings on nuclear waste disposal, supersonic jet noise, dam safety and other controversies garnered a lot of publicity. Visits to the Arctic to highlight the horrors of killing baby seals for their skins, and to a federal prison to join the battle to gain a presidential pardon for Patty Hearst also put Ryan in the national spotlight.

Ryan's efforts did not stop President Carter from granting the French-British Concorde permanent U.S. landing rights, and baby seals are still being slaughtered for their pelts. But Ryan's action to aid Hearst started a stream of statements from others favoring a pardon. And the problems associated with the disposal of nuclear wastes are getting a lot more attention now than they did when Ryan took up the issue.

Ironically, two significant Ryan achievements, as seen by those who knew him, received practically no publicity. Ryan played a major role in laying the groundwork for expansion of Redwood National Park in Northern California. Hearings Ryan held in 1976 on the erosion problems affecting the Tall Trees Grove in the park paved the way for federal legislation to create a larger park. The legislation was drafted and moved through Congress by Democratic Representative Phillip Burton of San Francisco who is chairman of the Interior Committee's subcommittee on parks. Ryan and Burton

John Fogarty is the Washington correspondent for the San Francisco Chronicle.

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did not get along, so there was little sharing of credit for expanding the park.

A major source of the trouble between the two Californians was the 1976 race for House majority leader, which Burton lost to Jim Wright of Texas by one vote. Ryan, who got help from Burton early in his political career, voted for Wright. Wright delivered a eulogy at Ryan's funeral. Burton, who was leading a House delegation to an international conference in Portugal when Ryan was killed, did not attend the service.

Ryan also succeeded without any fanfare in stopping the federal Department of Energy from killing what Ryan saw as a revolutionary breakthrough in solar energy. The development was presented at a hearing Ryan chaired shortly after he took over his subcommittee in 1975. The developer was a physicist with solid academic, professional and government credentials.

A congressional aide who was present at the hearing recalled what happened: "This guy had essentially designed the new energy mousetrap. He had a way to produce electricity from the sun, on-site, right at your house. It was very complicated but it had been demonstrated and Leo wanted to get right to the heart of the matter. Leo looked at this man and asked: 'You mean to tell me that this thing will allow me to take an ax and cut the utility wires to my house?'

"The physicist looked at Leo and said: 'Yes.' Leo almost cried. He had this incredible testimony, just what he always wanted to hear and there wasn't a reporter in the room."

The development, which had received a favorable review from the Department of Commerce's National Bureau of Standards, was later rejected by federal energy officials even after the scientist submitted detailed plans for a prototype to demonstrate the discovery on a fairly large scale. "Leo was absolutely enraged," the staffer recalled. "He immediately wrote to (Commerce Secretary) Juanita Kreps and asked that she challenge the DOE's finding.

The hunch factor

Ryan later got a letter from Kreps saying she was ordering the bureau of standards to review the system again and the DOE's problems with it. "Leo showed the letter around," one source recalled. "He was delighted that the man's idea was still alive. He believed it could revolutionize electricity production in the country. He was sure it was being killed by the power structure. He just had a hunch the guy had something good."

Hunches were an important part of Ryan's personality. He did not read a great deal and he would not always listen to staff advice. Two of his closest aides warned him not to go to Jonestown. He didn't listen.

When he set out to investigate conditions at the People's Temple settlement, Ryan had a hunch he would find a hell-like place. For more than a year, Ryan and his staff had been receiving reports from defectors and relatives of those who were still inside Jonestown that inhabitants were being held against their will and were being treated harshly.

The State Department conducted what Ryan and others saw as polite inquiries and, at least publicly, concluded there was nothing to the reports about Jonestown. Frustrated by what he believed was the department's unwillingness to act to help the people "trapped at Jonestown," Ryan set out to help them himself.

In the aftermath of his death, Ryan would be called a "man who believed legislators should go see things for themselves." But during his life, Ryan was criticized for traveling excessively at the taxpayers' expense. His congressional trips, or junkets as his critics called them, were an issue in each of Ryan's re-election campaigns.

As he planned his trip, Ryan made two decisions that would prove significant in later events at Jonestown. First, he decided that he would lead anyone out of Jonestown who wanted to go. Second, Ryan decided to take an NBC news crew, reporters from three newspapers and a newspaper photographer to Guyana.

A camera case

Some have cited the press presence as evidence that Ryan was once again off on one of his things and that he was more interested in personal glory than in exposing conditions at Jonestown. His family angrily disputes these charges. They say members of the press were not invited but instead asked Ryan if they could go along when they learned of the trip from relatives of Jonestown residents.

While Ryan believed the horror stories he'd heard about Jim Jones and his settlement, he wanted to be able to document conditions there, a family spokesman said. He believed nothing could prove the case against Jones better than a network camera crew and representatives from three major U.S. newspapers.

Things started to go wrong from the beginning of the trip. Two reporters had trouble getting into the country because they did not have the right visas, and Jones originally refused to allow Ryan's group into Jonestown. By mid-week, Ryan had a press revolt on his hands. Reporters who had accompanied him to Guyana were concerned they would have to go home and face their editors without having been inside Jonestown. They started to lay their own plans to charter a plane and "go up and knock on the gate" without Ryan. But Ryan, who had been pressuring the U.S. Embassy and Guyanese officials to get him into the People's Temple settlement, continued his efforts to get an audience with Jones. Finally, he persuaded Jones' attorneys, Mark Lane and Charles Garry, to intervene and the visit was finally scheduled. Ryan's group arrived Friday night.

The facade Jones had constructed around his commune began to crumble as reporters and Ryan talked to residents of Jonestown and people from a neighboring village. Everything Ryan had been saying about Jonestown was true. The place was a prison. Its people were little more than slaves.

A group of residents asked Ryan to take them home. The request was exactly what he had hoped for and Ryan agreed to get them out. It was the last thing he ever did.

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HOW SOME OUTEARN THE BOSS

State employees – both underpaid and overpaid

By MARCIA MEIER

Public employees throughout California are angry. They claim they have been caught in the inflationary spiral just like everyone else but have not been given pay increases to preserve their spending power as a result of the passage of Proposition 13. One of the most pressing issues before the Legislature this year will be how much of a pay hike to give state employees, and thus how much of an increase to authorize for local government workers. This leads to the examination of a fundamental question: Do state employees make more money, reap wider fringe benefits and enjoy stronger job security than their counterparts in private enterprise?

In enacting Proposition 13, many voters probably were saying that they thought public employees were paid too much for the services Californians received. Was the public right? An examination of salary levels and benefits indicates that, in general, state workers are about as well off as those in private industry, although there are some categories of state workers who are better off. Here are several comparison pictures:

• Civil Service employees make salaries that are comparatively equal to those in the private sector and in federal and county positions. Statutory employees — those paid a salary set by the Legislature — make comparatively higher salaries than their Civil Service counterparts — but they lack the job security that comes with Civil Service employment.

Some statutory employees (such as the governor, lieutenant governor and other selected or appointed constitutional officers) have no comparable positions in the private sector or Civil Service. But some of the legislative staff, such as attorneys, secretaries and physicians, do have counterparts in private business and Civil Service. For example, a general stenographer in the Civil Service earns an average salary of $10,392 per year. The same position in the private sector pays about $11,136 per year. On the other hand, secretaries or stenographers who work for the Legislature get an average of $13,458 per year. Vicky Tollefson, a secretary in the Senate Office of Research, makes $13,096. An executive secretary in the Assembly Office of Research, makes $18,336 per year.

Similar statistics apply for lawyers. Associate attorneys employed by the state in Civil Service posts earn an average $27,528 per year. Their counterparts in the private sector average $30,168 a year. Attorneys working for other governmental agencies make about $28,536 a year. Ralph Ochoa — an attorney employed by Assembly Speaker Leo McCarthy as a top assistant before resigning to enter private practice — was making $38,088 a year.

A Civil Service physician or surgeon earns an average of $42,924 per year; a private physician or surgeon earns an average of $50,244 per year, and those employed by federal or county government earn an average of $40,332 a year.

• One of the problems with the Civil Service salary system is a situation known as "compaction." Basically, it's a reduction in the gap between salaries of managerial, technical and professional classes and subordinate employees' salaries in related classes. In some cases a manager makes top pay for his position while his subordinates get only a little less. A year ago the Legislature directed the State Personnel Board to appropriate $2.5 million of the funds for salary increases to help alleviate compaction. But the board allocated only $800,000 for that purpose, and the problem persists.

Room at the top

In 1977 Governor Brown — who makes $49,100 per year — permitted raises for constitutional officers and the Legislature but refused a pay hike for himself. Those raises go into effect this month, unaffected by the wage and hiring freeze over other state employees.

As a result Lieutenant Governor Mike Curb, Secretary of State March Fong Eu, State Controller Ken Cory, Trea-

Marcia Meier wrote "The value of a diploma" in the November Journal.

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surer Jesse Unruh and Superintendent of Public Instruction Wilson Riles are now making $42,500 annually, up from $35,000 a year. State Board of Equalization members' salaries are up from $33,966 to $38,000 a year. SBE Chairman George Reilly now earns $38,500 a year.

Another pay-raise bill, giving all legislators a 10 percent increase, raised their salaries from $23,232 to $25,555, starting last month. The controller's office says several lawmakers are refusing pay raises this year, but this poses a problem: Where do the rejected raises go? The controller is bound by law to pay the legislators the $25,555 per year, so some members are donating the extra money to charities.

Such gestures are probably not too painful, since legislators are entitled to tax-free living expenses ($40 per day as long as they are in session) or per diem payments ($40 per day as long as they are working, even though they may be out of session). These tax-free dollars — which can be used for meals, apartment costs while in Sacramento or travelling expenses — push the actual salary of a legislator above $35,000 a year, depending on how much a member claims.

Better than the boss

The pay raises for elected officials were the first in ten years. Before they took effect many employees of elected officials were making more money than their bosses. These included Michael S. Gagan, deputy secretary of state, who was making $38,040 a year to March Fong Eu's $35,669; Charles A. Barrett, chief deputy attorney general, who made $46,560 compared to Evelle Younger's salary of $42,500 a year; and Chief Deputy Superintendent of Public Instruction Donald R. McKinley, whose salary was $39,720, $4,720 over Superintendent of Public Instruction Wilson Riles' $35,000.

Most principal consultants of the Assembly and Senate committees also make more than the legislators who belong to the committees. Roger King, principal consultant for the Senate Health and Welfare Committee, makes $33,288 a year. Gerald Hayward of the Senate Finance Committee earns $36,420 per year. Assembly principal consultants Carl Brakensiek of the Finance Committee and James Murdock of the Education Committee make $33,036 and $36,312 a year, respectively.

Comparing private practice and public service among physicians is difficult, because salaries for physicians employed as clinical faculty at the medical education programs at the University of California generally represent less than half their actual income.

All clinical faculty belong to a "medical compensation plan," which means they receive a share of the patient fees generated at the UC hospital or clinic in which they are employed. Before November 1977, each medical school had its own compensation plan for the physicians teaching there, and some had more than one plan in an attempt to recruit and hold qualified staff. Most of the plans permitted so many exceptions that some observers questioned whether the medical colleges had any plans at all. At least four different billing procedures were used by the schools. Billing was also done by individual departments, by outside contractors and by the physicians themselves. Within some schools a combination of billing procedures was being used until two years ago. Then in 1977, the Regents of the University of California limited the compensation plans to two types, or a combination of both. A "negotiated plan" limits the amount of additional compensation a faculty member may receive to a multiple of his or her base salary. The "income limitation plan" lets clinical faculty retain a decreasing proportion of their patient-fee revenues, in relation to the revenue amount and the base salary.

In 1976, the lowest-paid UC clinical faculty member (state salary only) was a physician teaching pediatrics, with an average salary of $42,000 per year. The highest paid state doctor was a faculty member teaching psychiatry, with an average wage of $53,200 per year. Again, these figures represent only the base salary paid by the state and do not include patient revenues from the UC clinics and hospitals.

There are similar variables involved in other faculty salary schedules. The California Postsecondary Education Commission's Information Digest for 1978 reports that of the 4,733 full-time faculty with nine-month contracts at the University of California, the mean salary was $24,423 a year. By contrast, the 11,322 full-time faculty with nine-month contracts with the California State University and Colleges (CSUS) earn a mean salary of $22,055. Among community colleges, the 14,417 full-time members with nine-month contracts earned a mean salary of $22,483 — slightly higher than the CSUS's faculty. Independent institutions, according to the report, paid their 4,816 faculty members on nine-month salaries a mean salary of $19,567 a year. (That figure was compiled from 85 accredited, 15 state-approved and 39 authorized independent institutions in the state.)

CPEC also says 81.8 percent of the full-time faculty at CSUC are full professors; 89.7 percent of the full-time faculty at the University of California are full professors.

Full professors employed at the University of California earn from $22,600 to $40,800 a year, while full-time professors at CSUS schools get from $26,088 to $31,524. By contrast, instructors at the University of California make from $12,800 to $14,800 and instructors in the CSUS system make from $14,916 to $17,940 per year.

The fringe-benefit issue

At the administrative level, David S. Saxon, president of the University of California, earns $65,625 a year. UC chancellors' salaries range from $55,230 to $58,200, depending on at which campus they are located. The chancellor of California State University and Colleges, Glenn S. Dumke, makes $67,776 per year, $2,100 more than UC's Saxon. All presidents of CSUS campuses earn $54,900 per year. CSUC presidents and UC chancellors also receive homes on campus for their families.

Such perquisites of office — houses, cars, per diem ex-

Selected Government Reports

Californians in Congress, 1978: Ninety-Fifth Congress, a report of the Council of the California Congressional Recognition Programs, by Alfred Balitzer and Paul Bardos. 114 pp. Available from the Council, Pitzer Hall, Claremont, CA 91711.

You, the Schools and Collective Bargaining, by the Information Project on Educational Negotiations of The Institute for Responsive Education, Boston, with financial assistance by the Rosenberg Foundation of San Francisco. 28 pp. Available from IPEN, 810 Miranda Green, Palo Alto, CA 94306. (Free)

A Program Review of the California Conservation Corps, a state Auditor General's report to the Legislature reviewing the CCC's effectiveness. 50 pp. plus appendices. Available from the Auditor General, Suite 750, 925 L St., Sacramento, CA 95814.

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penses — represent a basic problem in trying to compare the apples and oranges of public vs. private employment. It would be erroneous to compare state workers' salaries to those in the private sector without also considering fringe benefits and job security. The California State Employees Association says state employees generally get benefits similar to those given employees of medium or large businesses. These include a retirement system into which both employees and the state put money.

Until recently, the state paid about 85 percent of all employees' health insurance plans. Last year, the employees were granted a completely state-funded health program. This increases the average employee's take-home pay by about $10 to $13 a month.

CSEA spokesman Rich Martin points out that state employees do not have a dental plan and he says they "probably" do not get more holiday time — or perhaps one additional day per year — than workers in the private sector.

Bob Clifford, manager of the pay and benefits section of the State Personnel Board, says when comparing equivalent employment plans, the state may lead in some areas — of them is the retirement system — but they may lag in other areas. The State Personnel Board analyzes each benefit plan in the private sector before comparing it to state benefit plans. Each package depends on the firm and kind of work force, according to Clifford. Variables like whether the work force is young or old and whether the plan was designated by management or the workers are factors to be considered.

But unquestionably job security has been a big plus for state workers. Civil Service employees are protected by a Supreme Court decision which initiated the "Skelly procedure." It requires an employee to be informed in writing of any charges brought against him or her; to be given all the materials upon which the charges are based; to be able to present his or her side of the issue; to be represented by someone of his or her choosing, and to be informed of what disciplinary action will be taken. The practical effect of such protection is to make firing of Civil Service employees difficult if not impossible.

For faculty employed in California's postsecondary education systems protection comes from tenure which effectively assures them of continuing employment. At the lower levels of the education system, negotiated contracts have established similar job security. Across the state, local school boards are now asking for changes in tenure, seniority and transfer clauses. They fear Proposition 13's budget-cutting will come at the expense of children's educational programs if more flexibility isn't permitted in their personnel policies.

Leadership lineup for the new session

Assembly Speaker Leo T. McCarthy and Senate President pro Tempore James R. Mills were re-elected to their legislative leadership posts for the 1979-80 session without challenge.

Third-year Senator William Campbell was chosen Republican leader in the Senate, succeeding George Deukmejian, who was elected attorney general. The new caucus chairman is H. L. (Bill) Richardson, who replaces the retiring Dennis Carpenter.

In addition to Mills, the Senate rules committee consists of Democrats Nicholas Petris and Robert Presley and Republicans Ray Johnson and Robert Nimmo. Petris and Mills are the only holdovers.

New heads of Senate committees; John Garamendi, health and welfare; Paul Carpenter, education; Bob Wilson, elections and reapportionment; John Foran, transportation.

In the Assembly, Paul Priolo was re-elected as Republican floor leader. Bruce Nestande was chosen GOP caucus chairman and David Stirling will serve as minority whip.

New Assembly committee chairs: Bill McVittie, criminal justice; Marilyn Ryan, elections and reapportionment; Art Torres, health; Teresa Hughes, housing and community development; Richard Alatorre, human resources; Jack Fenton, judiciary; Eugene Chappie, local government; Lawrence Kapiloff, water, parks and wildlife. All are Democrats except Chappie and Ryan.

The Dills Act world

Other important changes are affecting the public employment picture as the new year begins. Most significant is the Dills Act, which went into effect in mid-1978 and allows state employees to enter into good-faith negotiations with the governor's employee relations representative for wage hikes and benefit changes. Previously, the State Personnel Board incorporated surveys of salaries and benefits received in non-state employment and then made annual recommendations to the governor and the Legislature on salaries and benefits. Now, under the new bill, state employees are choosing organizational representatives who will bargain with the governor's representative and prepare "memoranda of understanding." Any provisions requiring expenditure of funds are subject to approval by the Legislature.

The good-faith negotiations act does not apply to state employees in management or supervisory positions and their salaries will continue to be set as before, through recommendation by the State Personnel Board.

The combination of an executive order from Governor Brown after the passage of Proposition 13 and a veto of the salary raises for state employees in the budget bill this year clamped a hiring and salary freeze over state employees. CSEA claims the state is already losing some of its employees because of the freeze. "To give you figures is impossible," Martin says, "but we know state employees are leaving for jobs in the private sector." The freeze also has promoted piracy among the agencies, according to Martin. If a manager loses an employee he can hire from within by transferring employees from one agency to another. Anytime there is a transfer there can also be a promotion with a pay raise.

Not many years ago, a state worker had iron-clad job security and could count on regular cost-of-living pay increases. That era had passed, even before the passage of Proposition 13. State employees now act like members of a militant trade-union movement. They feel they were cheated following the passage of Proposition 13, and they want healthy hikes this year. The Legislature most likely will talk in terms of percentage increases and will make even less allowance than usual for the difference between those who are legitimately underpaid and those who fall into the few privileged categories.

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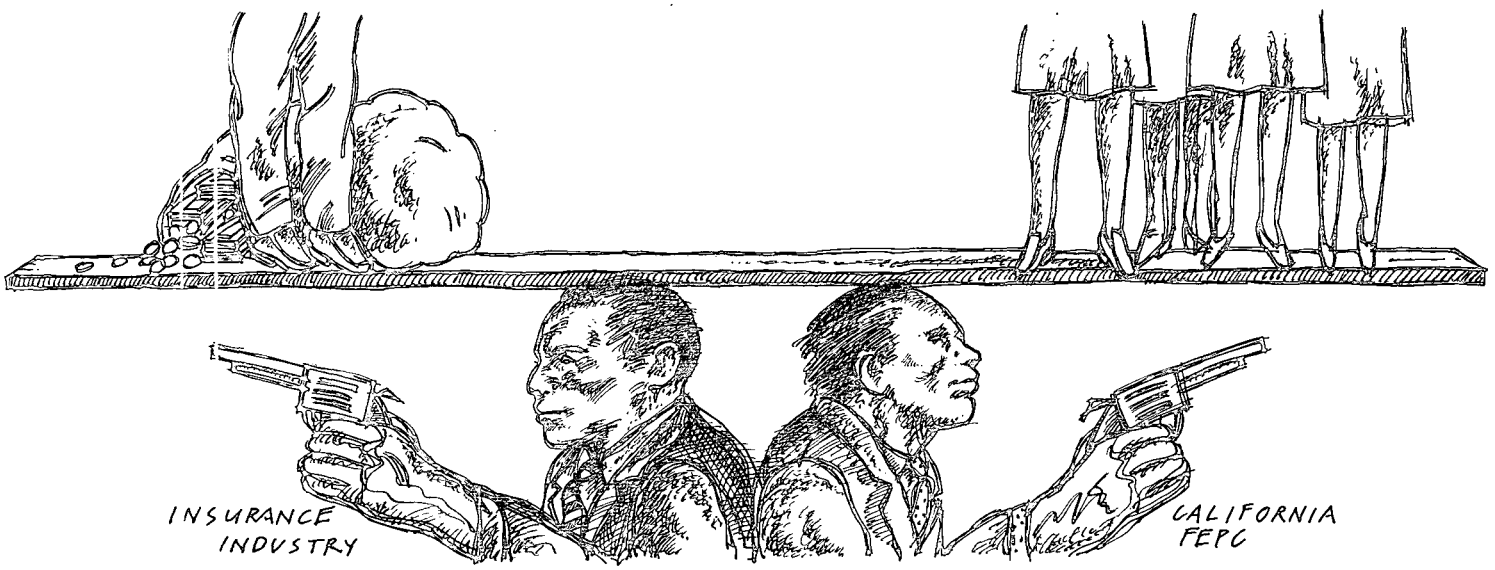
The insurance industry versus the California FEPC



By KIT STOLZ

Early this year dozens of the largest insurance companies in California filed suit to stop an investigation of their hiring and promotion practices by the state Fair Employment Practice Commission. The insurance companies charged that the FEPC — an agency about half the size of the Agricultural Labor Relations Board — improperly paid a group of San Francisco feminists to examine confidential industry statistics.

The insurance firms are challenging the concept and methods of a novel, possibly unique, sort of bureaucratic investigation. They haven't succeeded yet in court, but the firms are appealing some adverse decisions and hoping to limit the investigation, if not halt it entirely. The stakes involved are high: If a pattern of sex discrimination can be proved, the insurance companies will be liable for thousands of dollars in settlements — and will be obliged to change their hiring and promotion policies.

The FEPC investigation has been highly controversial from the start. "I can't remember hearing of anything like this," says Sid Shapiro, who directs a large Connecticut foundation interested in funding model social programs.

The idea of collaboration between a state agency and a community group was Shapiro's. In 1976, the Max and Anna Levinson Foundation, which he heads, received a grant application from a San Francisco feminist group. Shapiro flew out to talk with Women Organized for Employment (WOE), which specializes in counseling women on job discrimination.

Shapiro was puzzled by the chilly relationship between WOE and the FEPC, headquartered 15 blocks away. "It seemed strange to me," Shapiro recalls. "Both groups had the same purposes in mind. I wondered if they wouldn't be able to work together." Shapiro sat in on a meeting between the commission and WOE, and he later approved two grant requests, totaling about $12,000, for WOE coordinator Myan Baker's salary and expenses over the next 11 months. Because the purpose of the grant was to see how well the groups could work together, Shapiro insisted that funds for the investigation be funneled through the FEPC.

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Some revealing numbers

Baker used FEPC contacts with other anti-discrimination bureaucracies to compile a wide range of statistics. The most revealing numbers came from forms which insurance companies are required to file with the federal Equal Employment Opportunity Commission (EEOC), which list employment by ethnic group and job class — the so-called EEO-1 form. It is these forms the insurance companies claim are confidential and cannot be revealed.

The forms show that — although insurance companies employ thousands of women and minorities — the vast majority serve in clerical or service positions. Sixty percent of clerical workers were white females, and seven percent males, but white males comprised 75 percent of insurance officials and managers. (There were only 16 female executives.) The 1975 forms also showed that women were a very large percentage of the young work force but a much lesser percentage of the over-40 work force, perhaps indicating that men were moved up the ranks faster than women.

The EEOC and the FEPC handle the same sorts of employ-

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ment complaints. Because the federal agency is required to defer cases to state or local agencies where they exist, the agencies have worked out a contractual agreement. The contract calls for free exchange of information between the agencies. WOE, officially categorized as a consultant, was thought to have the same exchange privilege. The EEOC released the confidential forms to WOE with the understanding they were not to be published "individually or identifiably."

In a 40-page report given to the FEPC in mid-1977, WOE charged the industry with both race and sex discrimination. The commission, then headed by Charles Wilson, decided to launch a formal investigation of the entire insurance industry. Plans were made to send out 10,000 questionnaires to offices of insurance agents and brokers. From the responses the commission would cull the eight or ten worst offenders for conciliation proceedings or public hearings.

The plans were quickly scotched by Alice Lytle, appointed chief of the Fair Employment Practices Division in June 1977. Lytle, a Black woman who formerly served as deputy legal affairs secretary to Governor Jerry Brown, was appalled by the scope of the investigation. "It was much too ambitious," she recalls. "It would have taken a complicated computer analysis, and we didn't even have a computer." Instead questionnaires were sent to the 250 largest insurance firms in the state and the 50 largest brokers, which employ about 80 percent of the insurance work force.

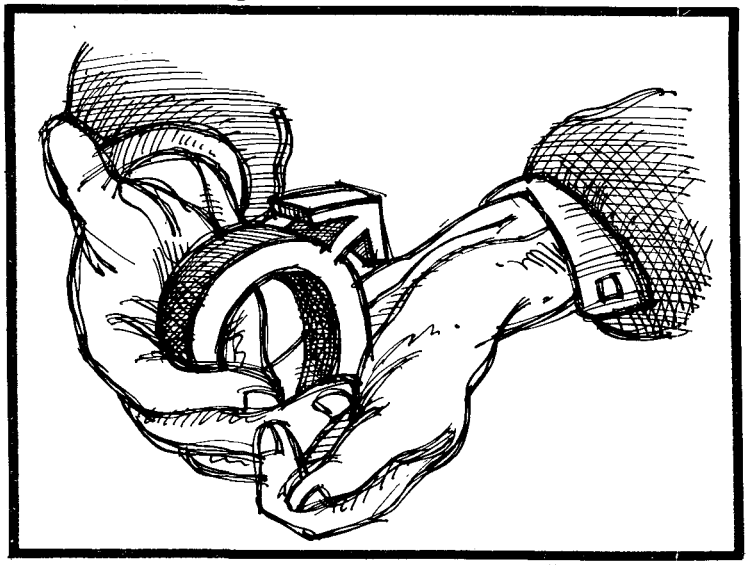
Taking on an industry

The insurance industry, too, was appalled at the scope of the investigation. The FEPC often receives sex discrimination complaints concerning insurance firms, and on one occasion ordered an insurance firm to pay $20,000 to a woman denied promotion in favor of a man. But it had never before considered investigating an entire industry. The Association of California Life Insurance Companies, the American Insurance Association and 54 companies filed four separate but similar suits to stay the investigation.

Last April Judge Charles Phillips of the Los Angeles Superior Court heard two suits brought by the Association of California Life Insurance Companies and 15 insurance firms. The judge told insurance lawyers, "I see nothing to suggest they (FEPC) are going to exercise their quasi-judicial powers in any unauthorized way." Phillips denied motions that claimed the investigation should be stayed because WOE asked for it, because the relationship with WOE prejudiced the FEPC against the industry, and because the FEPC failed to notify insurance companies properly. The judge finally dismissed the case last September, but a parallel case has been heard in federal court, and another is scheduled to be heard in Orange County Superior Court.

The questionnaire prepared by WOE and the FEPC requires an extensive statistical breakdown of insurance employees according to ethnic group, age and sex. It also permits compilation of each group's average salary, job classification, promotions and duration of employment. In addition, firms are required to list hirings, firings and promotions over a 12-month period, and to explain the reasons in each case.

FEPC chief Lytle claims that the insurance companies are trying to bury the investigation — conducted under a law due to expire next June — with a paper blizzard of suits and depositions. She has assigned one of her eight staff lawyers to the case full time, but doesn't believe she can divert additional staff from casework. "We're understaffed," she complains. "They can out-resource us every time. When Judge Phillips heard the case in Los Angeles, the association had ten lawyers sitting at the table and we had two. I went and sat with our staff so they wouldn't feel lonely."



Insurance spokesmen strongly protest the notion that the FEPC is the underdog in court proceedings. "That's ridiculous," says Lewis Keller, lobbyist for the association. "They have the whole power of the state behind them. All we have the power to do is pay taxes and be regulated." A spokesman for Fireman's Fund — which joined the association suit but nonetheless returned the questionnaire — contests the charge that the industry only wants to obstruct the investigation. "There are some serious questions here," says Dan Brigham. "Is it right for the state to hire an organization with a preconceived mind-set to do its investigating?"

Friends of the FEPC condemn the suits in strong terms. "The insurance industry is out to destroy the FEPC," charges Assemblyman Willie Brown of San Francisco. "In the Assembly they want to take away their subpoena powers, and in the courts they try to paper them to death."

Mary Dunlap — an attorney with Public Advocates who helped file a class action suit against the state's 25 largest insurance firms — claims that "discrimination is profitable, and the industry will maintain it as long as possible."

'Hanging out to dry'

Without question, it can be costly to remedy corporate discrimination. Early this year Canadian Indemnity settled a $6 million liability sex discrimination suit brought by the federal EEOC by instituting a $300,000 training and bonus program, paying $50,000 in back wages, and promoting 23 employees. The EEOC charged Canadian Indemnity with sex discrimination because only 39 percent of its technical, professional and managerial staff were women.

Canadian Indemnity's figures were better than the average firm's — a prospect that one insurance official terms "frightening." In an interoffice memo inadvertently given to state defenders in discovery proceedings prior to a hearing

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in federal court, Unigard vice-president Bob Barnitt revealed that 45 of the firm's 122 managers or professionals were women or minorities. "If the state gets hold of our numbers," he concluded, "they will hang us out to dry!"

Barnitt went on to say that if litigation failed to block the investigation, Unigard would try a "stalling action" until the investigation was concluded next June. In October Judge Manuel Real dismissed pleas by Liberty Mutual, Unigard and many other insurance firms to halt the investigation because it was prejudicial and violated standards of due process. The firms plan to appeal.

Despite the impact of the suits, the FEPC has received more than one-third of the questionnaires mailed to insurance companies. Four of the five largest firms in the country

have filed suit against the FEPC but the fifth — Equitable — has complied fully and privately supports the investigation. Equitable executives will not be quoted for fear of embarrassing other firms, but William McCaffrey, Equitable's social responsibility director, has met with the FEPC and WOE's Myan Baker. "They said we're in your corner," says Baker, "and that there are some questions here that need to be addressed."

Expanding the field

The FEPC decided to launch the insurance investigation under Section 1421 of the Labor Code, which means material gained from the insurance companies must not be made public and is to be used only in conciliation proceedings between the FEPC and each firm. If the conciliation process fails to produce an agreement acceptable to the firm or the six-member board of commissioners, the FEPC could air the dispute in a public hearing, bring suit or request the attorney general to file suit. "We bent over backwards to assure the companies we were fair, impartial and willing to cooperate," says Baker, "and what we got was a great deal of corporate paranoia."

Such an investigation would have been impossible when the commission was formed nearly 20 years ago. In 1959 the FEPC's jurisdiction was limited to discrimination based on race, national origin or creed. Then in 1963 the Legislature gave the FEPC responsibility for protecting victims of discrimination in housing — which now comprises about 15 percent of complaints filed. Seven years later, the Legislature gave the FEPC jurisdiction over sex discrimination.

The concept of discrimination has been broadened from the notion of minorities to the idea of "protected classes." In recent years the Legislature has barred discrimination based on age, physical handicaps, medical condition (in cases of rehabilitated cancer victims) and marital status. The commission itself decided last year to accept complaints of sex discrimination based on sex stereotyping — for example, from long-haired males.

As a result, the FEPC is handling more than three times the number of cases it did in 1969. In 1975 the commission received nearly as many complaints of discrimination based on sex, age or physical handicaps as it did in all categories in 1969 — about 1,320. In 1976 the commission filed more than 5,000 complaints, less than half of which were based on race.

The FEPC has not kept up with the categories generated by newly designated protected classes. When Lytle took over, she inherited a backlog of about 4,000 cases. The chief assigned 40 of the 110 investigators to the backlog, and ordered each investigator to close six cases a month. The backlog is expected to be eliminated by April — although her other investigators will have to work somewhat harder to avoid a new one.

A touchy question the FEPC has not answered is how to balance discrimination against different groups. "It's first come, first served," says Lytle. "The staff might revolt if we were to do it any other way." The only cases handled on a priority basis are ones in which an employer has threatened retaliation or a landlord eviction.

Lytle admits that her agency is incapable of handling all the diverse responsibilities assigned over the years by the Legislature. For example, the FEPC is supposed to examine all state contracts totaling more than $200,000 for compliance with federal employment policies. "It's just a paper responsibility," Lytle comments. "We accept the plans and store them in cabinets — we have no capacity for that sort of examination."

Legislators last session extended the FEPC's jurisdiction even more — to discrimination against workers over 65, to discrimination in social clubs, fraternal and educational associations, and over all rental housing except owner-occupied, single-family homes. Also approved were measures requiring the FEPC to oversee the granting of liquor licenses with an eye toward encouraging low-income employment. It also was told to cooperate with the State Health and Welfare Agency in preventing discrimination in state health programs.

"If the FEPC had been introduced as it is currently seen, it never would have passed," says Assemblyman Bill Lockyer. "It's a political solution to give an agency with modest staffing enlarged authority, but additional funds are not in the winds at this time."

More bluntly, Assemblyman Willie Brown says, "There's a closet opposition that's vocally for the FEPC, but would never vote to expand it." Assemblyman Julian Dixon agrees that chances for additional funding are slim, but he hopes to ease the agency's caseload by encouraging local organizations, such as human rights commissions, to work with the agency.

"There's a lot to do," Lockyer remarks, "but California is doing it better than most states." The FEPC regularly receives visitors interested in learning how to create an anti-discrimination agency. In recent months officials have traveled from New Mexico, Alaska and Australia's Ministry of Labor to speak with FEPC administrators.

WOE's Myan Baker — who sparked an investigation of employment agencies currently underway at the FEPC — is confident the agency is on the right track. "There are so many things that can be done, even in conciliation," she says. "If they could just persuade insurance companies to list job openings in the company with descriptions of the work and salary listings, women and minorities could learn what is available to them, and how much they earn in comparison with others — something the industry tries very hard to keep secret. It's a long road, but at least they (the FEPC) are not standing still."

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How local officials evade the state's anti-secrecy law

By KERRY DRAGER

The late Ralph M. Brown was an appeals court justice and, for 19 years, an assemblyman from Stanislaus County. But he is best remembered for the open-meeting law he sponsored 25 years ago. The "Brown Act" probably has produced more headlines and less enforcement than any other bill passed by the state Legislature. Its psychological effect on elected officials may be significant. But a tunnel-sized loophole, added to the law in 1961, makes prosecution under the Brown Act a joke.

In theory, the law is intended to assure that the public's business will be conducted in public — with some exceptions. Under its provisions, public commissions, boards, councils and "other public agencies" throughout California must "take action" and "conduct deliberations" in previously announced public sessions.

However, the Brown Act does allow for certain meetings to be held in private. Executive sessions are permitted to consider the appointment, employment or dismissal of a public employee; items affecting national security; collective bargaining with employee organizations; and matters concerning threats to the security of public buildings or services. The courts also have allowed private sessions with attorneys in certain matters of litigation and within the attorney-client privilege.

Pulling teeth

Definitions of commissions, committees, boards, advisory committees, "legislative body," "action taken" and quorums are discussed in the Brown Act, as well as conditions for its enforcement. Then, in 1961, a new section (54959) was added, saying that any member of a legislative body who violates the act's provisions is guilty of a misdemeanor. But the section effectively pulled whatever enforcement teeth it appeared to install:

- ***To be liable,*** members must have participated in a meeting at which "action" was taken. Because of this provision, critics argue, the public does not know whether a meeting must be public until it is over. Then it is too late because, even if the meeting is ruled illegal, the courts have said that any action taken remains valid.
- ***Even more important,*** members must have "knowledge" that they are participating in an illegal meeting. If they believe — or are advised — that they are acting within the law, then they are not liable to prosecution.

This "knowledge" requirement has made enforcement by district attorneys virtually impossible. For example, the Sebastopol City Council met in executive session several years ago to appoint two members as the city's labor negotiators. The city attorney informed the council members that they were proceeding in a lawful fashion, so the members said they believed they were acting within the law. The question of whether the city attorney's advice is right or wrong is irrelevant, under the language of the Brown Act. The counsel is not liable, regardless of how doubtful his advice is concerning executive sessions. By following the direction of counsel when considering a secret meeting, public officials guarantee themselves that they cannot, and will not, be prosecuted.

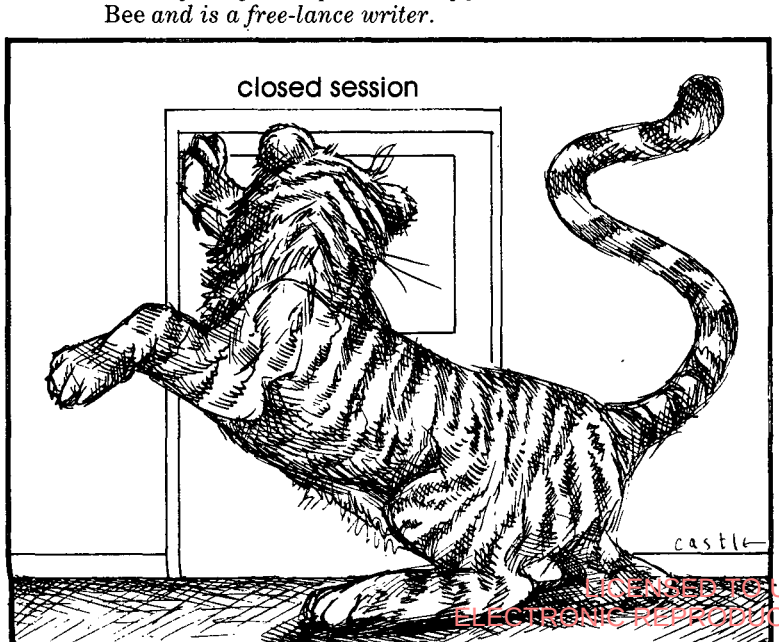
"The knowledge requirement is not just a loophole but a total evasion, set up to make the act impossible to enforce," says Sonoma County District Attorney Gene Tunney. Tunney refused to bring a criminal complaint against the Sebastopol members because of the advice they received from counsel.

"The Brown Act was designed to create a loophole," Tunney has charged. "They created an exception that destroys the law. I know of no other law that has this provision (requiring knowledge). It provides a built-in defense. And other DAs have told me that that is also their opinion — that it's unenforceable."

A long record

The record of similar cases is long and consistent. Ten years ago, during a court challenge of a secret meeting, (*Sacramento Newspaper Guild v. Sacramento County Board of Supervisors),* John B. Heinrich, the late Sacramento County counsel, said he had advised the supervisors that meeting in secret to discuss a labor dispute was legal. "I advised (the board members) it (the secret session) was all right," Heinrich said, "so it's all right."

Kerry Drager is a part-time copy editor at the Sacramento Bee *and is a free-lance writer.*



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Although the appellate court ruled that the meeting was illegal, Heinrich's statement was, and still is, true. As Sacramento attorney Michael E. Kilpatrick puts it, the knowledge requirement is "like the Nuremberg defense. The members can always say, 'It's counsel's fault, not ours. We may have inadvertently violated the Brown Act, but we acted based on counsel's advice.' And then it's too late. It's after the fact — the action will already have been taken."

This year Kilpatrick was involved in another Brown Act controversy. The San Juan District school board met in a secret session in which they decided informally to join other school districts in filing a lawsuit challenging Proposition 13's constitutionality if it was approved by the voters. Following passage, the board formally ratified its decision in an open meeting. The board's counsel, Robert Galgani, advised board members that their closed meeting was within the law. He said the session fell within the exception permitting closed sessions concerning litigation and within the attorney-client privilege.

Sacramento County District Attorney John Price felt the secret meeting was illegal and that its content was a matter of public concern not protected from the litigation exception. "However," Price said, "there is no evidence that any board members had knowledge of the violation. Accordingly . . . no criminal complaint will be filed." Price said the possible violation was unintentional since the members were told by the board's attorney — before and during the meeting — that it was legal. Price added that the Brown Act's "criminal sanctions are worthless" because of the knowledge requirement

Regardless of the executive session's legality, the San Juan board's secret discussion prompted a citizens' recall movement against those members who voted in favor of the suit. Kilpatrick, attorney for the Citizens' Committee for Recall, said, "When the going gets rough — in a matter of great controversy — the temptation is especially great for an executive session. Executive sessions are obviously necessary sometimes, but it must be brought in closer scrutiny. The Brown Act needs more teeth in it."

Beefing up the law

Since 1961, when Section 54959 was added, there have been several attempts to delete the knowledge requirement from the section. One such bill, SB 538, was introduced at the suggestion of Orange County prosecuting officials who felt that existing law made it too difficult to prosecute violators. The bill, had it passed, would have removed the knowledge requirement.

"It's difficult to get sufficient evidence," says Orange County Assistant District Attorney William Evans, "because the violation occurs in private and those who participate in the meeting would be the violators. Unless you could possibly grant immunity to one of them, it would be highly unlikely to prosecute successfully."

Another unsuccessful effort earlier this year, AB 3221, would have defined "open and public" meetings more specifically and would have removed the requirements on "action taken" and "knowledge." It also would have made violations subject to a civil penalty of up to $2,500 — at present there is no monetary penalty.

The Santa Barbara district attorney's office sponsored AB 3221 as a result of a Santa Barbara City Council meeting, known locally as "Mom's Caper" because it took place in a back room of Mom's Italian Village restaurant. Few spectators could get close enough to hear the proceedings, even though the meeting was supposedly public.

"Our office definitely feels the act serves a vital function," says Bob Cutting of the Santa Barbara district attorney's office. "But it needs sufficient tools to enforce it. This is a problem we've faced in numerous cases, and we are still having problems. There are very few prosecution tools available in the Brown Act, and it is almost impossible to prove knowledge unless you have an informer available." But AB 3221 died in the Assembly's local government committee.

If the Brown Act is nearly impossible to enforce, some observers believe that's okay. "It's a tough enough job as it is to rule these governing boards and commissions, without jeopardizing careers with a law that really isn't that clear," says Fred Williams, attorney for the Sacramento County counsel's office. "I think any board should be entitled to know it's breaking the law before being prosecuted for it," Williams adds. "It's not that well-written a law. It's subject to many different interpretations."

Sacramento City Attorney James Jackson agrees: "It requires intent in almost every other crime, so it would be unfair to not include it for public officials who are just trying to do their job. The act isn't all that clear . . . News articles may make it look worse than it is. It's just an easy out sometimes for district attorneys . . . because the lack of knowledge gets the DA off the hook."

William Keiser, general legislative counsel for the League of California Cities, puts it this way: "It's inherently only fair that you don't hang someone for a serious crime — and violation of the Brown Act is serious because someone's entire political career is involved — if they don't realize they have broken the law." The League backed the original Brown Act but strongly opposes any attempt to remove the knowledge requirement.

Richard Carpenter, legal consultant for the League, says there is no substantial demand for removing the knowledge requirement. "If there were some widespread abuse — and pretty good evidence of such abuse — then there may be grounds for taking it out. But there hasn't been that. It's just such an easy law to throw newspaper stories at — headlines of secret meetings."

Those headlines may be the key to the Brown Act's effectiveness: Even if it is legally unenforceable, the law's existence probably keeps local officials and their legal advisers sensitive about conducting business behind closed doors.

"I think that councils are very cautious," says Sacramento City Attorney Jackson. "They are aware that the news media will criticize them if there is even a hint of an illegal secret meeting."

So unless the Legislature decides to strengthen the law, the Brown Act will remain a toothless tiger. Ignorance will continue to be an official's acceptable defense against prosecution — and aroused public opinion will be the Brown Act's best ally.

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Internship – the first step up the Sacramento political ladder

By CHARLES M. PRICE

Several months ago, retiring Assemblyman Frank Lanterman introduced Assembly Constitutional Amendment 80. If it had passed, it would have required legislative staffers to wait two years after they had left their legislative staff positions to run for the state Legislature. Lanterman knew that his proposal would be clobbered, but he introduced it to call attention to what he considers "legislative incest."

It is common knowledge that administrative assistants, district aides, committee consultants, majority and minority consultants and leadership staff are running for state legislative offices in ever-increasing numbers. The staffers' contacts, friendships with legislators, understanding of campaign organization, fund-raising abilities and knowledge of the issues give them enormous advantages in running for office.

This "buddy system" also worries Assembly Republican minority leader Paul Priolo. He charged recently that Speaker Leo McCarthy has been trying to establish a legislative farm team, akin to major league baseball. When Assembly vacancies develop, Priolo charged, the Speaker sends one of his staff members into a district to establish residence and then file for the State Assembly. Both Lanterman and Priolo are unhappy that many staffers living and working in Sacramento maintain their legal residences where they hope eventually to run for office. Perhaps not incidentally, Priolo's Democratic opponent in November was a former legislative staffer.

So the staffer-to-legislator pattern is widely discussed and frequently criticized, especially by those who have been its political victims. But far less attention has been given to the question of how legislative staff is selected in the first place. The answer, with some exceptions, is through internship programs and/or campaign work. The internship route is one of the best ways for persons to move into jobs like administrative assistant, majority or minority consultant or leadership staff. Interning is less likely to lead to positions with the Senate or Assembly offices of research, committee staff and consultants, program or administrative analysts in the legislative analyst's office, or attorneys in the legislative counsel's office.

The grandaddy of internships

The granddaddy of internship programs in California, and in the nation as well, is the Assembly Fellowship Program. It was founded in 1957, under the guidance of a UC Berkeley political science professor, Joe Harris, and jointly funded in the early years by the California Assembly and the Ford Foundation. The program was a success from the start and has been copied by other state legislatures. Fellows selected were nearly all graduate students in political science at the state's major universities or recent law school graduates.

Charles M. Price is a professor of political science at Chico State University and a member of the Assembly fellowship board.

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In the 1960s, during the leadership years of speaker Jesse Unruh, the California Assembly and later the Senate moved to professionalize the two houses. One of the key ingredients was a vast expansion in staff positions, and early "graduates" of the Assembly Fellowship Program were in an ideal position to find staff jobs in the Legislature. Many of these ex-fellows are now fixtures on the Assembly staff: James Driscoll, chief clerk of the Assembly; Dave Doerr, chief consultant, Assembly Revenue and Taxation; Bruce Bollinger, chief consultant, Assembly Elections and Reapportionment; Thomas Willoughby, chief consultant, Assembly Resources, Land Use and Energy; Gil Oster, consultant, Assembly Public Employees and Retirement; or John Stephen Spellman, Assembly Finance and Insurance. Moreover, a number of current office-holders are graduates of the program, including majority floor leader Howard Berman, new state Senator Barry Keene and Chief Justice Rose Bird.

The Assembly Fellowship Program has changed gradually over the years. Fellows now come from a variety of majors; they are not just advanced graduate students. They also represent a variety of California public and private institutions, not just a few prestige universities. Many more women, Blacks, Chicanos and Asians have been chosen recently. Instead of working exclusively with committee staff as they used to, fellows today work in three separate locations during their year: in a member's Capitol office, in a district office and for a committee.

Since the Assembly and Senate are no longer creating new legislative staff positions (in fact, both houses have tried to reduce staff), job opportunities for fellows are not as plentiful as they once were. However, a few fellows from each year's class do still seem to wangle staff positions.

Among other paid internship programs at the Capitol are the Senate Fellowship Program (similar to the Assembly Fellowship Program) and Coro Foundation, a privately funded program which provides some Sacramento experience for its interns as one of a series of internship experiences during their year. A number of staffers and legislators are graduates of this program. There are also the Governor's Summer Internship Program, the California State Agency Internship Program, California Tomorrow's Environmental Interns and the University of California student lobby.

Tip of the iceberg

Paid internships, however, are only the tip of the intern iceberg. The overwhelming majority of capital interns serve in unpaid positions. As colleges try to provide more practical experience geared to career opporunities, there has been a steady increase of college students (and even some high-school students) seeking intern positions at the Capitol. Assembly Rules publishes an annual list of Assembly members willing to accept volunteers in the summer months or during the school year.

As a result, growing numbers of interns — part-time and full-time, serving for a quarter, semester or year, paid and unpaid — are now thronging the Capitol corridors. From nearby campuses (the University of California, Davis; California State University, Sacramento; McGeorge Law School; California State University, Chico; and the University of California, Berkeley) come hundreds of students for internship experiences. More distant colleges (University of Southern California; University of California, Santa Barbara; University of California, Los Angeles; and University of California, Riverside) also have ongoing internship programs in Sacramento. Recently the California State University system started a new "Capital Experience" internship program. Selected students intern at the Capitol and study at California State University, Sacramento. Some serve with legislators but others serve with staff, departments, agencies, commissions, lobbyists, research firms, media, and the *California Journal*.

Internships provide obvious advantages: practical experience, good contacts, academic credit for what is usually an interesting job. Offices which accept interns benefit too — mainly from the free help.

Some inherent problems

But there are some problems inherent in the world of internship, and they include these:

• ***Space shortages*** — During the Capitol's reconstruction, space has been a constant problem. In some offices, a sort of musical-chairs game is necessary for interns and staff — when somebody gets up to go somewhere, the empty chair is swiftly occupied by another who has been leaning against the file cabinet.

• ***Exploitation*** — Some staffers and secretaries treat interns as indentured servants, part of the "go-fer" system. In a few offices interns are given only routine, monotonous work.

• ***Credit snatchers*** — On several occasions, interns have written reports which were commandeered by staffers, who gained points with their bosses for work that interns did.

• ***Carrot-stick approach*** — In a couple of offices, interns have been told that if they work hard, or stay late at night, or work on weekends, they will be rewarded with a paid staff job. Eager interns agree to do the extra work, only to find the jobs never materialize.

• ***Professorial demands*** — College professors want interns to read professional journals, work on term papers, write book critiques and attend seminar sessions. Interns, however, want to be part of the "real world" of politics and prefer a vacation from academic demands.

• ***Staff relations*** — Some staffers feel threatened by the zealous enthusiasm of interns trying to make good. Staffers who are trying to study for their evening law courses or who are interested in doing as little work as necessary find eager interns can be a pain.

• ***Training agonies*** — Many staffers dislike having to train ever-oncoming waves of interns. Some complain it's easier to do the job themselves than to have to educate successions of interns.

• ***Jaded view*** — This occurs with some interns, usually after the third or fourth week. The intern concludes legislators are hypocrites and the process a sham. But by the end of their internship, most have a reasonably positive view of state government.

• ***Differences in offices*** — Since interns get to know each other and confer frequently, problems arise. Some students are given more meaningful assignments, or get to go on trips, or have closer access to a legislator than others, and this causes friction.

• ***Status*** — Interns are at the very bottom of the Capitol pecking order. To do their jobs and to get people to treat them seriously, most interns quickly learn to call themselves "legislative aides," or anything but "interns."

Such problems, however, are exceptions to the rule. Most people in the Capitol welcome interns, give them responsible assignments, train them carefully, work with them closely and accept them as "one of the gang."

A recent survey of former Assembly fellows found that 75 percent of the ex-fellows thought their internship year had made either a great difference or some difference in their eventual career choice. Beyond this, former interns tend to be more serious students, have a better idea of the complex problems facing politicians and become more tolerant of opposing views. If the current trend continues, they also may be a part of the next generation's lawmakers.

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The Supreme Court blow at the grand-jury system

Why all the reactions of surprise over the state Supreme Court's ruling that criminal defendants indicted by a grand jury are entitled to preliminary hearings before they can actually be tried? The court has given notice over the years that it was not happy with the grand-jury system and wanted it reformed. Just three years ago, the court unleashed an attack on the grand jury and required in *Johnson v. Superior Court* that prosecutors inform grand juries "of evidence reasonably tending to negate guilt." In that case, Justice Stanley Mosk made it clear that he felt the grand-jury system violated the constitutional rights of defendants.

Mosk took the next step in November with his 5-2 majority ruling in *Hawkins v. Superior Court* that the grand-jury indictment process violates the equal-protection provision of the state constitution. At first, prosecutors reacted by saying that the decision virtually eliminated the grand jury's criminal function. But upon further reflection, district attorneys said the grand jury's investigative powers would still be used to question witnesses in the pre-trial stage of a case. District Attorney Joseph Freitas of San Francisco said the grand jury won't go out of the crime business because it remains "crucial to investigations of white-collar crimes and political corruption." Freitas said he would have preferred that the high court modify the system by allowing defense attorneys to attend hearings. Instead, the court added the post-indictment preliminary hearing before a judge.

The political spotlight

The *Hawkins* decision probably would not have received nearly so much media attention had it not been for the fact that the Supreme Court was in the political spotlight in the November 7th election — just two days before the case was filed. Chief Justice Rose Elizabeth Bird was under fire and barely retained her office. One of the charges against her was that her decisions were too liberal. Another election-eve charge was that the court had held up another crime decision for release until after the election. That controversy is very much alive and has led to an investigation, requested by Bird, by the Commission on Judicial Performance.

The attention focused on court activity this year has led the state's incoming attorney general, Republican George Deukmejian, to propose that more of the court's activities be opened to the public. Although the court has resisted such efforts in the past, it is significant that the net effect of the grand-jury case will be to make one aspect of the judicial process more visible to the public.

Before analyzing the *Hawkins* case, it should be noted that a typical grand jury will spend perhaps 20 percent of its time on criminal cases that could lead to indictments. These usually include the state's most publicized crimes. The remainder of the time is devoted to the study of local government. Most felony accusations are filed by the district attorney through the "information" system which involves a preliminary hearing in a municipal court. If the judge finds that there is sufficient evidence to warrant a trial, he or she sends the case to superior court for trial. In less than four percent of the cases, district attorneys have sought indictments by grand juries. In these instances, the defendant could obtain a review of the transcript by a judge but could not obtain preliminary hearings.

Mosk's 'vivid contrast'

In the *Hawkins* case, Justice Mosk spells out the difference he sees in the two systems: "The defendant accused by information immediately becomes entitled to an impressive array of procedural rights, including a preliminary hearing before a neutral and legally knowledgeable magistrate, representation by . . . counsel, the confrontation and cross-examination of hostile witnesses, and the opportunity to personally appear and affirmatively present exculpatory evidence. In vivid contrast, the indictment procedure omits *all* of the above safeguards . . . The prosecuting attorney is typically in complete control of the total process in the grand jury room: He calls the witnesses, interprets the evidence, states and applies the law, and advises the grand jury on whether a crime has been committed." Mosk pointed out that between January 1st, 1975, and June 30th, 1977, 235

(For additional background on grand-jury reform, see "Justice or Star Chamber?" in the December 1975 *Journal*.)

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cases were presented to the San Francisco grand jury and indictments were returned in all 235 cases.

Mosk said that the right of judicial review of the record is not sufficient to eliminate the problem of "excessive prosecutorial evidence" because the defense has no opportunity to probe for flaws in the material presented to the jury. "This lack of defense participation in the development of the reviewable record creates a heavy bias in favor of a finding that the grand-jury indictment was based on probable cause," the justice wrote.

Mosk, a former attorney general, said he did not want to eliminate the grand jury's indictment function or even alter it radically because that is the job of the Legislature. Until the Legislature acts, however, he said the remedy for the equal-protection problem was to allow the indictment process to continue but to add the right of each defendant to demand a preliminary hearing. He said the *Hawkins* decision would not apply retroactively. Joining Mosk were Bird and Justices Mathew Tobriner, Wiley Manuel and Frank Newman.

In a concurring opinion filed by Mosk on a rather esoteric point of law, the justice spelled out the reasons given by prosecutors for choosing to use the indictment process: (1) to save time; (2) to protect witnesses against embarrassing cross-examination; (3) to protect an innocent person accused of a crime; (4) to protect the cover of an informant; (5) to protect witnesses against harm or intimidation; (6) to allow the prosecutor to test his case; (7) to permit the hearing to be held over an extended period of time; (8) to ease use of subpoenas; (9) to beat the statute of limitations when the defendant is absent; (10) to protect a defendant from pretrial publicity; (11) to prevent flight of the accused; and (12) to permit the prosecutor to share responsibility for the indictment with a grand jury when there is great public interest in a case.

The dissenters' grounds

But these were not the grounds used by the two dissenting justices, Frank Richardson and William P. Clark Jr., in rejecting the majority opinion. They argued that the court does not have the power to change the grand-jury system and that there is no fundamental inequality in the system.

Wrote Richardson: "The state constitution expressly empowered the Legislature to create the existing system. It follows that the courts, including this one, lack authority to destroy the system . . . It is the Legislature, and not this court, which is vested with the *exclusive* power to alter or abort that system." Richardson traced the history of the grand-jury provision in the constitution, including the vote of the people on a measure to revise the constitution only four years ago. He concluded: "We possess no right whatsoever to rearrange or refashion to our own liking the provisions . . . in which the people have expressly said that an examination need *not* accompany the indictment."

The dissenters also defended the constitutionality of the indictment system. "Research," they emphasized, "has disclosed no state or federal court case holding, as the majority does herein, that a post-indictment hearing is required as a matter of *constitutional* law. This is a wholly novel proposition."

There is nothing novel in the California court cutting new legal trails. Mosk, in particular, has been the prime proponent of the theory that the state court need not be bound by decisions of the federal Supreme Court because it is the job of the court in Washington to protect the rights of states against the federal government but the duty of the state high court to protect the individual against the state.

The lawmakers' response

Years ago, Mosk sent out a message to prosecutors with this description of the indictment procedure: "In its raw state, the proceeding raises the specter of the Star Chamber — the prosecution is able to 'dry run' its case in secrecy, and the jurors are able to do little more than rubber-stamp the recommendation of the district attorney." Had the state's prosecutors taken the hint and made more restricted use of the grand jury for felony investigations, it is possible they might have avoided the *Hawkins* decision. In the *Johnson* case, the court sounded a loud warning. Efforts were then made to reform the grand-jury system via the legislative process, but those attempts were fruitless — a point made by dissenters Richardson and Clark.

Now that the court has taken the next step — and a giant one — it will be up to the Legislature to decide what procedures should be followed. Will the defense attorney be allowed into the grand-jury room, as suggested by District Attorney Freitas as an alternative? Will grand juries be restricted to certain kinds of cases, such as organized crime and political corruption? Will the Legislature express alarm that the *Hawkins* case will delay court proceedings and thus add to government costs? Will the Legislature be tempted to eliminate the criminal function of the grand jury entirely?

The best guess is that the Legislature, which finds it extremely difficult to reach consensus on tricky crime issues, will do nothing. As a result, grand juries will probably be used in less than one percent of the cases — which is probably what Justice Mosk hoped would happen three years ago with his call for reform. *E.S.*

ROSTRUM

The *Journal* welcomes brief letters from readers.

Voice of the teacher

In the November *Journal* you published Annie Nakao's "What's Wrong With Our Public Schools? And What Can We Do To Make Them Better?" This article raises more questions than it answers. Indeed, why not an article entitled "What's Right About Our Public Schools? And What Can We Do To Make Them Even Better?"

Another question might be how many schools has Annie Nakao visited recently to gather fresh material — rather than the stale press handouts from the bureaucrats and those special interests who are (and always have been) opposed to a free public education for all children? How many teachers has Annie Nakao recently talked to?

Alexander Law and Wilson Riles are quoted several times. Who does Annie Nakao think a better source of what is really happening in the schools — Law and Riles or teachers in the classrooms of the state? As for test results and Riles' "reforms," A. Alan Post asked some very good questions, as legislative analyst, regarding the validity of both.

I urge the *Journal* to give equal space to the teachers who are on the battlelines of public education in California. Ask the veterans as well as the armchair strategists.

LAWRENCE M. FISCHBACH
Claremont

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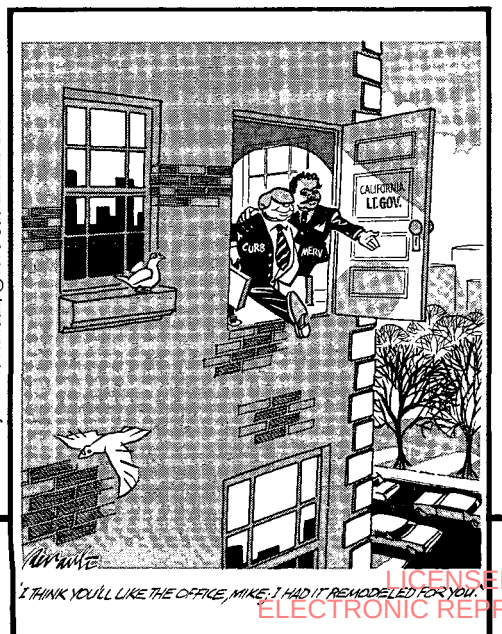
California *CAPSULES*

Commission launches Supreme Court probe at Bird's request

At the request of Chief Justice Rose Elizabeth Bird, the state Commission on Judicial Performance has initiated an investigation into the state Supreme Court. The chairman of the nine-member commission is Appellate Justice Bertram D. Janes of Sacramento. The probe centers around allegations that the Supreme Court failed to announce a decision prior to the November election because such a step might have proved damaging to Bird, whose name was on the ballot and who won only 52 percent of the vote. Bird sought the unusual investigation, she said, "to clear the air and thereby restore confidence in the judiciary." The commission will attempt to determine whether Bird or Justice Mathew Tobriner held up the case, *People v. Tanner*, supposedly invalidating the state's use-a-gun, go-to-prison law, for political reasons. Also, the commission may attempt to determine how the allegations might have been leaked from the court to the media.

While Brown's away Dymally plays with executive orders

With Governor Brown out of state attending an oil conference in Arizona December 6th, lame-duck Lieutenant Governor Mervyn Dymally decided to vent his spleen against his Republican conqueror, Mike Curb, in a dramatic fashion. Dymally, acting as governor, issued three executive orders designed to undercut Curb's power. The orders transferred authority over three operations — the California Office of the Border States Commission, the California Commission on Food and Nutrition and the Rural Youth Employment project — from the lieutenant governor's office to the governor's office. Dymally also awarded jobs to three aides who would have faced unemployment under Curb. Neither Brown nor Curb seemed alarmed at Dymally's actions because all of them can be rescinded by Brown at any time. Brown, however, did concede he was "surprised" by Dymally's executive orders, which were rushed to the secretary of state's office only minutes before Brown returned to the state.



Cartoon by Dennis Renault, ©1978 Sacramento Bee

Judicial council votes to relax court camera ban

The state Judicial Council has voted to permit a one-year experiment allowing the photographing, recording and broadcasting of court proceedings. Relaxing a 13-year-old rule, the council authorized Chief Justice Rose Elizabeth Bird to name an advisory committee of judges, lawyers and news media representatives to draw up rules and to evaluate the experiment in courts yet to be selected. Despite this vote, wholesale broadcasting of court proceedings cannot be anticipated. This is because the council stipulated that broadcasting and photographing will be allowed only with the permission of the judge and both sides in a trial. The council, which is composed of 21 members and is headed by Bird, also suggested that consent might also be required from jurors, witnesses and the attorneys in criminal cases. Shortly after the council acted, Los Angeles Municipal Court Judge Ernest L. Aubry declared the current ban unconstitutional. His ruling will have no effect on any other court.

Wells Fargo donates Proposition 13 savings to three charities

Wells Fargo and Company announced that it will contribute $1.2 million of its Proposition 13 savings to three charity organizations. Officials of the firm, which operates the Wells Fargo Bank, said the $1.2 million represents the property-tax reduction for the last six months of 1978. Richard J. Borda, executive vice president of the company, said he hopes other corporations will follow suit. The funds will be divided into three $400,000 grants, one each to public television stations for instructional purposes, to the Neighborhood Housing Services Foundation and to the United Way.

PUC chief proposes linkage of airports by underwater tube

President Robert Batinovich of the state Public Utilities Commission has proposed that the San Francisco and Oakland International airports be linked by a 12-mile train tube running beneath San Francisco Bay. The result would be the operation of both facilities as a single transportation center. The cost of the project, he said, would be about a billion dollars. The San Francisco airport is now crowded, and the Oakland terminal has excess capacity. The Public Utilities Commission has been attempting to put more flights into Oakland. If the train link were built, passengers could check in at either facility, and some of them would take the train under the Bay to their departure gates.

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The Kennedy shadow

By Leo Rennert

A funny thing recently happened to Jerry Brown on the way to the 1980 Democratic presidential nomination. Instead of just having to keep an eye on President Carter, the Governor suddenly discovered that he has to worry at least as much about the oncoming rush of Senator Edward Kennedy. In fact, at this stage, Kennedy may be the greater obstacle. By taking the gloves off against Carter in increasingly conspicuous fashion, Kennedy is stealing the spotlight from Brown and picking up many dissident Democrats who otherwise might stick around and wait for the Governor to make his move.

Brown's eclipse in current maneuvers for 1980 goes back to Proposition 13 and his decision to make himself the champion of the taxpayers' revolt. As a born-again fiscal conservative, the Governor managed to score a smashing re-election victory. But the price he had to pay for this exercise in political survival was the defection of many liberal Democrats who are not ready to proclaim Howard Jarvis as their patron saint. By veering to the right, Brown remained politically alive in California but boxed himself in on the national scene. In riding the crest of anti-government sentiment, he is taking exactly the same line as Carter. The prospective challenger has become a carbon copy. Both men are now wielding the budget axe against many social programs long espoused by their party. With Washington and Sacramento on the same fiscal retrenchment track, it's not easy for Brown to project himself as a dazzling alternative to Carter.

Liberals are beginning to close ranks against both and plotting strategy for the upcoming battles of the budget — federal and state. The anti-Carter coalition includes much of organized labor, church groups, education organizations, anti-poverty alliances, urban interests, health lobbies and a wide assortment of community, reform and liberal-activist cadres. Normally, Brown might have been expected to capitalize on their frustrations and invite them into his camp. But they're just as disappointed in him for picking up the Jarvis banner. George Meany, who has broken openly with Carter, also has no use for Brown.

As a result, in searching for an alternative to Carter, labor and the liberals are looking elsewhere. Nowhere was this more evident than at the Democratic Party's mid-term conference in Memphis last month. While Brown was conspicuously absent, Kennedy received a hero's welcome. The Massachusetts senator may or may not take the plunge in 1980, but he's already making all the necessary moves expected of a serious contender. Kennedy didn't just limit himself to his usual attack against the White House for dilly-dallying with national health insurance. He dramatically widened the breach by making himself the champion of all disaffected Democrats who are upset over their party's drift to the right under both Carter and Brown. And while his supercharged rhetoric was aimed directly at the White House, it carried enough fallout to reach Brown as well.

"We are not the party of McKinley or Harding," Kennedy thundered. "Sometimes a party must sail against the wind. We cannot afford to drift or lie at anchor. We cannot heed the call of those who say it is time to furl the sail. The party that tore itself apart over Vietnam in the 1960s cannot afford to tear itself apart today over budget cuts in basic social programs. There could be few more divisive issues for America and for our party than a Democratic policy of slashes in the federal budget at the expense of the elderly, the poor, the Black, the sick, the cities and the unemployed."

Brown's absence was all the more noticeable because of Kennedy's highly visible challenge to Carter. Nor was this a one-time problem for the Governor. The big national debate in 1979 and 1980 — whether to use conservative or liberal strategies in dealing with inflation — has been pre-empted by Carter and Kennedy. For the moment, Brown is not even in the fray; he's only a spectator.

The Governor dispatched half a dozen aides, led by Tom Quinn and Joe Beeman, to the Memphis conference to keep an eye on the Carter-Kennedy battle and to let delegates know in a fairly low-key manner that Brown is not totally out of the presidential picture. But there was little in the way of reassuring news for the Brown camp. Tom Hayden, increasingly unhappy with Brown's conservatism, suggested Kennedy might be a preferable standardbearer. Hayden hasn't given up entirely on Brown. But many other party activists apparently have. A conference poll showed Carter as the favorite of the delegates with 58 percent, followed by Kennedy with 34 percent. Six percent voted for "someone else" and Brown came in a poor fourth with just 2 percent.

Brown strategists privately admit that the Governor quickly must find new ways to separate himself from Carter if he wants to demonstrate that he remains an important national force. But when asked to sketch Brown's new national profile, they can produce only a vague outline — that Brown is more "exciting" than Carter because he's interested less in drab government reorganization schemes and more in "new ideas."

At the moment, however, all the excitement in the Democratic Party is being generated by Kennedy. There was speculation some time ago that Kennedy might use Brown as a stalking horse in 1980, wait until the Governor throws his hat in the ring and then jump in himself — as his late brother Robert did in 1968 when he challenged Lyndon Johnson only after Gene McCarthy had moved in. That scenario now has waned. Kennedy is coming on so strong that if he decides to run for president in 1980, it's already clear he will do so without waiting for or worrying about the governor of California.

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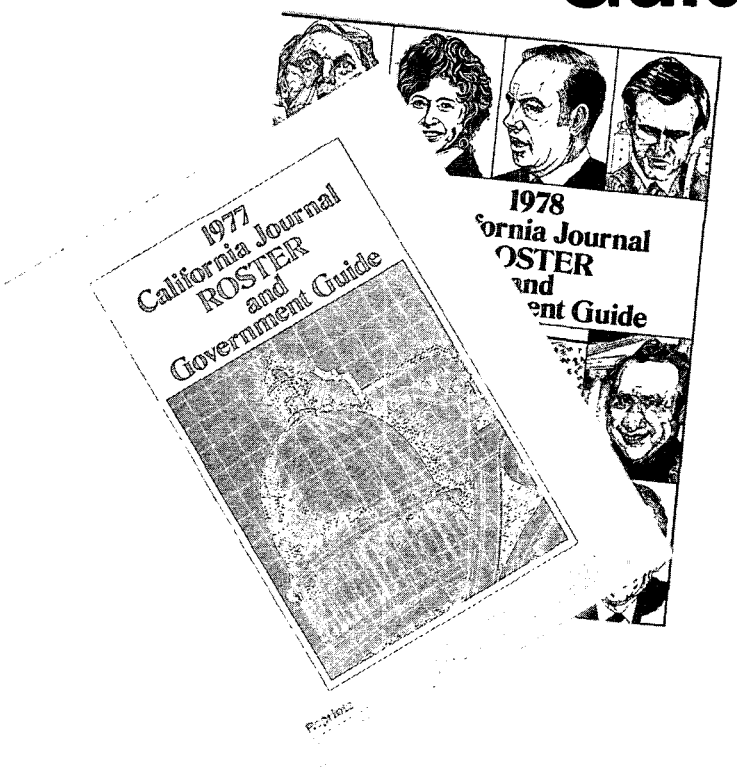

The 1979 edition of the **California Journal Roster and Government Guide,** our best-selling annual publication, will be available at the end of January. The 12-page booklet will contain the names, addresses and telephone numbers of all Californians in Congress, members of the state Legislature, statewide elected officials and each major department in California government. It will contain information on legislative committees, a legislative process chart, and much more material of use to anyone coming into contact with any branch of state government.

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Personal charm may win elections, but it seldom solves problems.

— Arnold Glasgow

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